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School Finance Litigation: McCleary v. State of
Washington

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**Reporter's Verbatim Report of Proceedings, October 1, 2009,
Volume XVIII, Sessions 1 and 2 of 4 [Pages 3917-4048]
07-2-02323-2**

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1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 IN AND FOR THE COUNTY OF KING

3 MATHEW AND STEPHANIE McCLEARY on)
 their own behalf and on behalf of)
 4 KELSEY and CARTER McCLEARY, their)
 two children in Washington's public)
 5 schools; ROBERT AND PATTY VENEMA,)
 on their own behalf and on behalf)
 6 of HALIE AND ROBBIE VENEMA, their) SUPREME COURT
 two children in Washington's public)
 7 schools; and NETWORK FOR EXCELLENCE)
 IN WASHINGTON SCHOOLS, ("NEWS"), a) NO. 84362-7
 8 state-wide coalition of community)
 groups, public school districts,)
 9 and education organizations,)
 PETITIONERS,) CASE NO.
 10)
 VERSUS) 07-2-02323-2SEA
 11)
 STATE OF WASHINGTON,)
 12 RESPONDENT.)

13 Proceedings Before Honorable JOHN P. ERLICK

14 KING COUNTY COURTHOUSE
 15 SEATTLE, WASHINGTON

16 DATED: OCTOBER 1, 2009
 17 Volume XVIII, Sessions 1 and 2 of 4

18 A P P E A R A N C E S:
 19

20 FOR THE PETITIONERS:

21 BY: THOMAS F. AHEARNE, ESQ.,
 22 CHRISTOPHER G. EMCH, ESQ.,
 23 EDMUND ROBB, ESQ.

24 FOR THE RESPONDENT:

25 BY: WILLIAM G. CLARK, ESQ.,
 CARRIE L. BASHAW, ESQ.

1 P R O C E E D I N G S

2 (Open court.)

3

4 THE BAILIFF: All rise. Court is in
5 session. The Honorable John P. Erlick presiding in
6 the Superior Court in the State of Washington in and
7 for King County.

8 THE COURT: Good morning. Please be
9 seated.

10 We are on the record this morning in matter
11 of McCleary, et al., versus the State of Washington,
12 King County cause number, 07-02323-2 SEA.

13 We are continuing the trial of this matter
14 in the respondent's case-in-chief at this time.

15 Let's see, Mr. Clark, are we continuing
16 with Mr. Rarick this morning?

17 MR. CLARK: Yes, we are.

18 THE COURT: Very good.

19 Mr. Rarick, if you would please retake the
20 stand.

21 Any preliminary matters from any counsel?

22 MR. EMCH: Nothing, your Honor, from the
23 petitioners.

24 MR. CLARK: I don't believe so, your Honor.

25 THE COURT: Mr. Rarick, you remain under

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 oath from your testimony yesterday, please be seated.

2 BENJAMIN RARICK,

3 Having been previously sworn,

4 Testified as follows:

5

6 DIRECT EXAMINATION

7

8 BY MR. CLARK:

9 Q. (Continued.) Mr. Rarick, as we begin this
10 morning, would you reiterate what is your current
11 employment for the record?

12 A. I am the K-12 Senior Fiscal Analyst for the
13 Office of House Representatives of the Washington
14 State, House of Representatives in the Office of
15 Program Research.

16 Q. Thank you.

17 Yesterday we concluded your -- the segment of
18 your testimony with a discussion of PowerPoint
19 presentation that you were part of in October of 2007.

20 Now, I want to turn to a different Task Force
21 related matter.

22 Were you aware at some point in the proceedings
23 of the Task Force that there were a number of
24 proposals to reform funding, and other aspects of K-12
25 education, that had been submitted to the Task Force

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1 proposal?

2 A. I was.

3 Q. Were you asked to perform an exercise in
4 costing-out -- or estimating the expected costs of
5 those proposals?

6 A. With the group of others, yes.

7 Q. I am going to provide you with Exhibit 337. I
8 will ask you to turn to it.

9 A. Did you say Exhibit 337?

10 Q. Yes, Exhibit 3, 3, 7. Could you identify
11 Exhibit 337 for the record?

12 A. Exhibit 337 appears to be a costing sheet, in
13 which I played a role in producing, that tried to
14 provide rough estimates comparisons of various
15 proposals before the Basic Education Task Force.

16 Q. All right. The title of the document is "BETF
17 Cost Estimates."

18 Are each of the proposals, that you were aware
19 of, to the Task Force, discussed in this document?

20 A. Could you restate the question.

21 Q. Sure.

22 Are each of the proposals that were submitted to
23 the Task Force addressed in this document?

24 A. I believe so.

25 Q. There are also a column that is called:

1 "Current funding level estimate." What does that
2 mean?

3 A. The -- many of the proposals on the sheet,
4 proposed not only a change in the amount of
5 expenditures, but also a change in the way that the
6 revenues would be allocated to districts.

7 So, that first column was an attempt to recast,
8 if you will, the amount of money that the State
9 currently allocated to districts in the framework that
10 was being used in the Basic Education Task Force.

11 Q. All right.

12 One of the columns is entitled "Legislative
13 Proposals." What is that about?

14 A. So you will see, to the left of the current
15 column "Legislative Proposals." Then also three
16 others there -- there are each proposals from the
17 different members within the Task Force.

18 The Legislative Proposals was a group of
19 legislators with whom I worked. They had a specific
20 program.

21 Level proposal I tried to attribute some rough
22 estimates costs to that proposal.

23 Q. The legislators, that I believe that you
24 identified yesterday, were those the same legislators
25 on the Task Force, who were responsible for this

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1 proposals?

2 A. I can't be certain that every one of the ones
3 that we listed yesterday fully supported that
4 proposal, but it was the general group, yes.

5 Q. Representatives Hunter, Anderson, Priest,
6 perhaps sometimes representative, soon to be Senator
7 Jarrett, Senator Tom, I believe that you identified?

8 A. Yes.

9 Q. There is one more, his first name is Pat, I
10 believe?

11 A. Representative Sullivan.

12 Q. Yes, Representative Sullivan?

13 A. The clarification that I was offering, although
14 those were the individuals that helped work on them, I
15 don't know that every one of them fully endorsed the
16 proposal -- I don't know it was five of the six, or
17 whatever.

18 Q. What was the Full Funding Coalition Proposal?

19 A. That was a proposal made by other members of
20 the Task Force that had worked with some of the
21 stakeholder groups, to put together their proposal.

22 Q. Do you know if the Full Funding Coalition
23 Proposal was based in part on a study done by a
24 Dr. David Conley?

25 A. I think that it was based in part on that

1 study, yes.

2 Q. There is Bergeson/OSPI proposal. Please
3 identify that proposal for us?

4 A. So, Terry Bergeson was the State Superintendent
5 at the time that the Task Force was deliberating. She
6 had a proposal.

7 Q. All right.

8 A. These figures will reflect the rough estimate
9 of the costs of that proposal.

10 Q. There is a Chair Grimm proposal. Could you
11 identify that for the record, please?

12 A. Former Representative Dan Grimm was the chair
13 of the Basic Education Task Force. He also had a
14 proposal.

15 Q. Can you describe what you did in order to
16 derive the cost estimates information for each of the
17 columns, that are reflected on Exhibit 337?

18 A. All right.

19 What happened was it was not, first of all,
20 exclusively me. There was a collection of staff that
21 were kind of assembled for the purposes of trying to
22 take these various proposals that had been put on the
23 table.

24 In a relatively short time, tried to standardize
25 the framework of each of these proposals, put them in

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1 a kind of a common denominator format, so that they
2 could be costed and compared.

3 So that the process was kind of working with
4 staff from -- that represented some of the groups that
5 had proposals on the table, trying to take information
6 that they had about their proposal and boil it down to
7 a common framework, and then use that common framework
8 and do some costing.

9 It was a challenging exercise.

10 Q. All right.

11 Let's discuss the information that is on the far
12 left of the exhibit, Exhibit 337.

13 Cost estimates for program for 2007-2008 SY --
14 that is tying the information to the 2007-2008 school
15 year?

16 A. That is correct.

17 Q. Would you please take us through each of the
18 categories that are listed there and tell us briefly
19 what they signify?

20 A. The general apportionment category is very
21 similar to our conversation yesterday about the major
22 components of the general apportionment.

23 It reflects compensation for certificated
24 instructional staff for classified staff
25 administrators, learning improvement days, NERCs, is

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1 non-employee related costs, and central office
2 administration was kind of a new criteria, or part of
3 a new framework that the Basic Education Task Force
4 was working with that was not part of the existing
5 system.

6 Then Special Education is the -- of course, the
7 categorical allocation for students, who qualify under
8 that category.

9 Levy equalization is the funding source that we
10 talked about yesterday is non-Basic Education funding
11 that comes from the State to largely property poor
12 districts that to help mitigate the effects of low
13 property wealth and the tax rates that would be
14 required to raise that 24 percent levy lid, or of what
15 levy rate may exist in that district.

16 Assistance for struggling students was kind of a
17 recasting of the Learning Assistance Program, or LAP,
18 that we talked about yesterday.

19 Assistance for English Language Learners was
20 kind of a recasting of the bilingual that we talked
21 about yesterday.

22 Compensation bonuses was a category put on
23 there, because it was part of the framework that the
24 Basic Education Task Force was working for.

25 But you see zeros as across-the-board, that is

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1 because at some point that there was a discussion
2 among the principals they were going to defer some of
3 the competitive wage -- comparable wage conversation
4 for later.

5 So that it was part of the sheet, but it wasn't
6 actually incorporated into the costs.

7 Extended opportunities for highly capable, is
8 kind of a recasting of the gifted program, again, a
9 non-Basic Education. But there was at this time some
10 discussion about whether it was going to be proposed
11 to be part of the Basic Education or not, that is why
12 it is reflected.

13 You see transportation and then institutional
14 education.

15 Transportation was kind of on its own course a
16 little bit. There was like a separate Task Force that
17 was working, and so I did not attempt to create a
18 model for transportation, as it really wasn't in my
19 bailiwick, or that of the Task Force.

20 It was kind of the separate entity working on
21 that concurrently. It was kind of set to the side for
22 the most part. There was a conversation about it, but
23 it was not costed. Same with the institutional
24 education; that completes the list.

25 Q. All right.

1 I notice under the general apportionment
2 category Central Office Administration, perhaps
3 overhead is the word: "Only the current funding level
4 on the legislative proposal have values to them, the
5 other three proposals do not."

6 Why is that?

7 A. Because we talked about the first step of this
8 being kind of taking the new -- the existing system
9 and trying to recast it in the new framework.

10 The legislative proposal, part of that
11 framework, was -- whereas now in the current system
12 there is just those three different types of staffer,
13 certificated instructional staff, certificated
14 administrative staff and classified staff.

15 That designation doesn't make any designation as
16 to whether they are school base staffed or
17 administrative support. So that the legislative group
18 kind of entertaining some ideas about how you would
19 create an allocation model that did make that
20 distinction, made assumption about what school-based
21 staff would be allocated and also made an assumption
22 about what kind of resources would be provided for
23 districts administration and district-wide support.

24 Q. I noticed, too, in connection with each of the
25 four proposals, there is a column that indicates a

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1 plus or a minus percentage figure.

2 What are those signifying?

3 A. I think what that is drawing from is it's
4 taking the far left-hand current column and it is
5 doing a net difference between the particular proposal
6 and the recasting of the current.

7 Q. All right.

8 They would signify, then, where applicable a
9 percentage increase over the current level of the
10 State funding; is that correct?

11 A. Yes. A rough estimate of that, yes.

12 Q. Each rough estimate for these four proposals,
13 does contemplate State only funding; does it not?

14 A. That is right; so that the current funding is a
15 current State funding.

16 Q. All right.

17 The bottom line above "Estimated Costs Per
18 Pupil" line, those represent the total estimated
19 costing out for the current funding level versus each
20 of the four proposals; correct?

21 A. Correct.

22 Q. I notice, for example, the legislative
23 proposal, next to its \$9 billion or so figure,
24 indicates that it is a 60 percent increase, I take it,
25 over the current State funding level?

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1 A. That's right. You actually see two percentages
2 down there.

3 Q. Yes, I am really straining for the other one,
4 so please explain it.

5 A. What is going on there is one of them is an
6 estimate of just an increase of those programs. If
7 you were going to crosswalk each of these programs,
8 aggregate the increase of that cost, that would be
9 your rough estimate increase.

10 Q. That would be the 60 percent?

11 A. That's right.

12 Q. The second figure --

13 A. The second figure seeks to answer kind of the
14 logical next question, that a lot of legislatures had,
15 which is:

16 "Okay, you have just told me how much it would
17 cost, if only -- only the funda that we use for these
18 programs are applied to the programs that we are
19 proposing. But what if we took all of the, what is
20 called the near general fund, K-12 funding, in other
21 words, the funding that supports these programs, but
22 also funding from programs like the Student
23 Achievement Fund, or other programs that are outside
24 Basic Education and beyond the bounds of what you see
25 here, what if those are also applied?"

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1 The term that is typically used to describe
2 those is near general fund -- kind of a wider cast of
3 all of the funding that is applied to K-12 Education.

4 So that that figure, it is a rather small figure
5 here. The font, it appears to say 37 percent.

6 Q. Now, I see that the second figure that you have
7 described, I believe, with regard to the full funding
8 coalition, but no first figure.

9 Why is that -- when it comes to these
10 percentages?

11 A. Let me refresh my memory here briefly.

12 Q. All right.

13 Again, in reading under the "Full Funding
14 Coalition" it says "growth over total available
15 revenues," I think?

16 A. Yes.

17 Q. -- "36 percent"?

18 A. Yes.

19 My recollection of this is that the Full Funding
20 Coalition Proposals was kind of a little different in
21 nature, in the sense that some of these proposals that
22 we are looking at -- what is the State's
23 responsibility exclusively, and then my recollection
24 is that the Full Funding Coalition was looking at what
25 should the entire system look like.

1 That is why the metrics are a little different.

2 So I think that the only metric that is shown
3 there is the percent over total available revenues.

4 Q. All right.

5 The Bergeson and Chair Grimm Proposals were
6 analyzed, at least percentage wise, along the lines
7 where we are currently discussing the same way as the
8 legislative proposal?

9 A. Yes.

10 Q. "Estimated costs per pupil" sounds self
11 explanatory, but for the record, please explain it.

12 A. Well, it is the -- a rough estimate of the
13 aggregate cost of the proposals divided by the number
14 of the student FTEs, that the programs would serve.

15 Q. All right.

16 So in the legislative proposal, for example, the
17 estimated cost here is approximately \$9,000 per
18 student?

19 A. That is correct.

20 Q. The first asterisk note here, I believe,
21 addresses the Full Funding Coalition proposal, as you
22 just have testified about it, in terms of it being
23 something evaluated against all available revenues; is
24 that correct?

25 A. That is correct.

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1 Q. The second note, that says "note," what is
2 being conveyed by that footnote?

3 A. Well, at some point in this process, there was
4 a determination that other than Learning Improvement
5 Days, there would not be any salary increases
6 entertained in this first phase of costing.

7 I say other than learning improvement days,
8 because any learning improvement days are
9 compensation. It is like a pro rata pay for each day
10 percentage increase on the salary guide.

11 So other than that, they didn't cost out
12 administrative salary increases, or classified salary
13 increases, or teacher salary increases to the base not
14 reflected in lipid.

15 Q. As you understand it, what did -- strike that.
16 That is a later question.

17 The last footnote, that is a certainly is
18 challenging to me as any eye chart that I have ever
19 encountered, if you can read that, I hope that you
20 can, please explain it to us?

21 A. Can you point my eye once again where was it
22 exactly.

23 Q. Yes under the one that says "note, "the final
24 one, these are draft or something it says?

25 THE COURT: Mr. Clark, there are miraculous

1 new devices called eye glasses.

2 MR. CLARK: Your Honor, in my defense I
3 have worn them since 3rd grade.

4 But in my wisdom the last contact lens
5 prescription outfitted me with a left lens that sees
6 distance and a right lens that is a bifocal. So
7 between them, I was doing quite well until this
8 lawsuit came along.

9 To my chagrin, I have discovered that
10 putting readers on only makes me close the bifocal eye
11 and try to read with the left. Either way I am
12 squinting and doing other things.

13 THE COURT: You have gone much higher tech
14 than the rest of us.

15 MR. CLARK: Look where it has gotten me,
16 your Honor, exactly where I am today.

17 A. I will --

18 THE COURT: I apologize for the
19 distraction.

20 MR. CLARK: No distraction, your Honor,
21 except the eyes. They are the distraction.

22 THE COURT: You may proceed.

23 Please, Mr. Rarick, please proceed with
24 your youthful eyes.

25 A. The final note says that these are draft cost

1 estimates, which rely on, in number of a good faith
2 assumptions reflecting various degrees of subjective
3 judgment.

4 Because the proposals utilized different
5 methodologies, adjustment factors are used to maintain
6 comparability.

7 Q. What are we trying to convey by that footnote,
8 Mr. Rarick?

9 A. To understand that note you kind of have to
10 understand about how the process that we went through.

11 Q. Please explain.

12 A. All right.

13 Costing out a proposal for a K-12 funding system
14 is a pretty technical and difficult task, just doing
15 one, all right.

16 To do five, and to try to do five in a manner
17 that compares across programs, is a real challenge.
18 One of the challenges is that each of these programs
19 might have proposals that use program names that
20 aren't exactly over -- that don't align exactly -- or
21 perhaps they are overlapping.

22 You know, maybe one proposal uses has a proposal
23 for At-Risk students that doesn't exactly crosswalk to
24 the proposal for struggling students that another
25 proposal -- there is these translation issues.

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1 For costing purposes, the way that this kind of
2 ad hoc team worked was that the only way that we will
3 be able to achieve any level of comparability here is
4 to try to boil it down to a common denominator
5 framework.

6 So that the proposer kind of accepted the
7 responsibility of saying, "I will take my proposal and
8 kind of try to give the costing information and the
9 structure necessary to run it through the model that
10 you have developed."

11 Then we translated that information into these
12 particular structures.

13 We ran into all kinds of issues. You see one of
14 them reflecting the note about the Full Funding
15 Coalition, and it being kind of a fundamentally
16 different type of approach.

17 But there were a number of issues that arose
18 just, you know, working as an ad hoc group -- what is
19 a reasonable way to try to resolve this and achieve a
20 reasonable degree of uniformity and accuracy, so that
21 we are putting information out that is going to
22 advance the discussion.

23 We -- there was kind of a recognition that there
24 is going to be to be some imprecision here, but the
25 Task Force felt like they needed some costs to move

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 forward. It was a difficult exercise.

2 Q. Are you comfortable with the results that are
3 reflected in this exhibit, as far as their accuracy or
4 reasonableness is concerned?

5 A. The judgment that we had to make at the time is
6 for where the Task Force was and what they were trying
7 to achieve and where they were in the conversation is
8 this advancing the discussion, does it add more value?

9 We thought that it did.

10 The approach that I took, as kind of, I guess
11 you could say, I was kind of the lead analyst, if you
12 will, of this exercise, was to try to help them
13 translate their proposal into this framework.

14 Then run it through the model and then go back
15 to them and say, "you know, does this make sense to
16 you? The results that are coming out of here, do they
17 make sense to you? "

18 In each case people said, "yes, I don't see
19 anything radically off."

20 Q. So was the exhibit and the information in
21 Exhibit 337 made use of by membership on the Task
22 Force?

23 A. It was. It was, actually.

24 Q. Can you tell us whether or not the sponsors of
25 each of the proposals that is analyzed here, were in

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1 agreement or disagreement with the information
2 pertinent to their proposals?

3 A. You mean, were they in agreement as to the
4 costs that were attribute today it?

5 Q. Yes, generally speaking.

6 A. I didn't -- there was no case where during the
7 costing of the process, people came back and said, "I
8 think that is wrong."

9 Subsequent to its publication, one of the staff
10 people came back and said, "you know, I didn't think
11 about this or that, but I don't think that it is
12 materially changed the, you know, the comparability."

13 There were, when you were -- the reason that I
14 expressed some reservation, is when you said was there
15 agreement, there was some surprises.

16 People didn't necessarily think that that
17 something would look a certain way and then, "was that
18 really the result of that particular decision?"

19 Q. Did anybody, you know, suggest that any of the
20 estimates were too low?

21 A. I don't remember anybody specifically alleging
22 that, no.

23 Q. Did anybody say, "my God, those are too high"?

24 A. The only comments that I remember were perhaps
25 a little surprise that they were as high as they were.

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1 But the comments are coming from people, who wouldn't
2 necessarily have the technical grounding to know
3 anything beyond just kind of a general perception.

4 Q. All right.

5 MR. CLARK: We offer Exhibit 337, your
6 Honor.

7 THE COURT: Exhibit 337 is offered.

8 MR. EMCH: No objection, your Honor.

9 THE COURT: Exhibit 337 is admitted.
10 (Exhibit No. 337 received in evidence.)
11

12 Q. Who else was involved in the team that
13 assembled the information for 337?

14 A. Well, each one of these proposals had a Task
15 Force member, or members, who were proposing it.

16 Then each one of those Task Force members
17 generally had staff that. You know, so if it was
18 Terry Bergeson's proposal, of course, she has staff,
19 technical staff that worked on this.

20 But the Full Funding Coalition, I worked with a
21 couple of people, who were working with the
22 stakeholder groups.

23 Q. Jim Davenport, for example?

24 A. No, I don't remember working with Jim
25 Davenport.

1 I remember working with Bill Froend a little
2 bit.

3 Q. In connection with the Full Funding Coalition
4 thing?

5 A. Yes, I believe so.

6 The, there was a consultant that I believe OSPI
7 had hired as part of developing their proposal. She
8 pitched in a little bit.

9 Q. Do you remember her name?

10 A. I believe that her name was Barbara
11 Billinghamurst.

12 Q. All right. Chair Grimm probably carried the
13 load as far as his proposal was concerned, I take it.

14 A. No.

15 Actually, you know, I mean, he -- he carried the
16 load in terms of developing the own proposal. But in
17 terms of the costing of it, I think that some OSPI
18 staff chipped in.

19 The Institute for Public Policy had some staff,
20 who were able to help on some of these calculations.

21 It was a pretty broad group of folks. The best
22 way to describe it is staff to the people on the
23 committee, who were responsible for their particular
24 proposal.

25 Q. You mentioned Bill Froend, who does Bill Froend

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1 work for currently, if you know?

2 A. Currently, I think, I had heard recently that
3 he retired.

4 Q. Do you know who he worked for at the time that
5 these cost estimates were developed?

6 A. I think that he was working for the Washington
7 Education Association at the time.

8 Q. State Teachers Union?

9 A. Yes. He worked for them at one point.
10 I am not sure if the timing exactly aligns.

11 Q. Was Jennifer Priddy involved in the OSPI
12 proposal?

13 A. She was.

14 Q. Let's go to the Task Force Report, which is
15 Exhibit 124. I would like you to go to page 24 in the
16 Task Force Report, please.

17 Have you got it?

18 A. I do.

19 Q. What involvement did you have in developing any
20 of the information that is contained in the cost
21 estimates for the proposals?

22 A. So, just a little background here.

23 The Task Force was staffed by the Washington
24 State Institute for Public Policy.

25 The Institute For Public Policy did not have

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1 some of the technical expertise necessary to do some
2 of the costing for the Basic Education Task Force.

3 At one point they became aware of the fact that
4 I was developing -- I was in the process of trying to
5 develop the integrated school-based model.

6 They approached me and said, "could that be the
7 basis for doing the costing of the other proposals as
8 well?"

9 I discussed that with the legislative group, the
10 legislators, they thought that that -- there would be
11 no problem with that.

12 So at the time of the completion of the Task
13 Force Report, there was a decision made by the chair
14 that they were going to do some kind of costing.

15 The Institute sought some my assistance in terms
16 of using the model that I had developed, you know. It
17 was, and still is, kind of, you know, being refined
18 and refined.

19 It is hard for somebody, who is not familiar
20 with it, to just kind of, you know, doesn't have a
21 users' manual.

22 So I helped them. Once the decision was made
23 that they were going to do the costs, I helped them
24 make those costs as accurate as I believe that they
25 could be.

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1 Q. Did you have any responsibility for the range
2 of costs that are estimated in the last paragraph on
3 page 24 of Exhibit 124?

4 A. I did.

5 Q. There are two sets of ranges. Let's start with
6 the first one that goes from \$7.5 to \$10.1 billion
7 group biennium.

8 How was that developed?

9 A. I am going to take a moment to refresh my
10 memory.

11 Q. All right. That is fine.

12 A. So what you see in the final paragraph are,
13 essentially, two sets of estimates. The first part of
14 the paragraph shows slightly higher costs than the
15 second part of the paragraph.

16 The first part of the paragraph talks about only
17 program-to-program increases in aggregates.

18 What would -- if you simply take the amount of
19 money that the State is using to fund the existing
20 Basic Education Programs, then you compare that to
21 what the new costs of those proposed programs would
22 be, what is the net increase of those two things? All
23 right.

24 So that you see roughly a range of 63 percent to
25 85 percent. There is three levels there and those

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1 levels reflect different estimated salary assumptions
2 coming out of some comparable-wage studies that were
3 done as part of the Task Force process.

4 Dr. Lori Taylor was retained by the Task Force.
5 She did some comparable wage studies, estimating
6 comparable wages under certain parameters.

7 Q. Comparable wages for whom?

8 A. For school employees, certificated.

9 Q. All or just talking about the teachers?

10 A. Actually, I believe -- that gives me pause,
11 because I am trying to remember now whether or not she
12 did classified staff, comparable wage analysis.

13 I don't think that she did. I think that it was
14 restricted to certificated instructional staff.

15 Q. All right.

16 A. So, any way, that gives you a sense for the
17 three steps there.

18 One, the first step is no teacher wage increase,
19 but with the addition of eight learning improvement
20 days for a total of 10 days.

21 The second step reflects Dr. Lori Taylor's -- I
22 should say the Institute for the Public Policy's
23 translation of Dr. Taylor's recommended comparable
24 wage for certificated instructional staff, assuming at
25 10-month work calendar.

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1 Q. Why, if you know, was a 10-month work calendar
2 assumption employed?

3 A. I think that she was probably -- I don't want
4 to put words in her mouth, maybe she will be here to
5 testify. She could ask that question.

6 I think that my sense would be that the teaching
7 profession might be unique in the respect that a lot
8 of those -- a lot of teachers' contracts are ten-month
9 contracts. Whereas a lot of the professions to which
10 teaching might be compared are not 10-month contracts.

11 The third step in that would be, if you did not
12 make that 10-month assumption, that you compared them
13 to other 12-month professions.

14 So not surprisingly, you get three steps of
15 increasingly more expensive proposals based on those
16 assumptions.

17 The second set of costing estimates in the
18 latter half of that paragraph, kind of takes the same
19 step that we talked about in the other costing sheet,
20 which is, rather than just looking at the aggregate
21 change in the cost of the Basic Education Programs,
22 and the costs of when applied just to the revenues
23 that are used for Basic Education, what happens if you
24 expand the revenues that you are applying it to?

25 What happens if you look at the near general

1 fund, and programs that are not part of the
2 discussion -- the best example being the student
3 achievement fund, which I believe at the time of this
4 exercise was in the neighborhood of four to five
5 hundred million dollars a year.

6 So, also, if that was applied to defray some of
7 the costs of this new system, what kinds of
8 incremental cost would those produce an aggregate
9 using the same three steps.

10 Q. Did these range estimates include a costing-out
11 estimate for an Early Learning component?

12 A. Yes. The model that I used was not an Early
13 Learning model. It was K-12 model.

14 So what happened was that I helped the Institute
15 cost out the K-12 portion. Then the Institute
16 actually did estimate of what they thought that the
17 Early Learning component of this would be. It was
18 just added on to the aggregate.

19 Q. All right.

20 How precise are these estimates?

21 A. That is a difficult question to answer, because
22 it is, you know -- goes to what is -- compared to
23 what?

24 I think that the challenge -- there were a
25 number of challenges.

1 I would say that I believed that they are
2 reasonably accurate. I believe that they serve the
3 purpose for which they were included, which is to
4 provide estimates of parameters of what we are talking
5 about in aggregate terms about a system's change.

6 But there are a number of issues arise when -- I
7 think that we discussed this yesterday -- when the
8 policy makers concentrate on the big policy issues,
9 but maybe don't get to some of what I would call the
10 technical minutia of the proposals that can actually
11 drive a fair amount of the money -- sometimes an
12 aggregate, but particularly across districts and
13 between districts.

14 So as staff, you know, you just try to resolve
15 those in a reasonable manner. And so when I assisted
16 in the writing of this, I thought that it was
17 important to kind of caveat it in that way, and to let
18 everybody know that these are estimates, and really
19 only for that purpose; that changes in the enrollment
20 for the staff mix, or any number of factors could tip
21 the balance up or down.

22 The amount of State expenditure is also part of
23 this. So as a State expenditures go up and down, the
24 incremental cost changes.

25 I would imagine, if you did this exercise, you

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1 know, three years later, even if your expenditure side
2 didn't change, if your revenue side changed, that
3 would change the costs.

4 I didn't want to convey a false sense of
5 precision. So I kind of insisted upon using the
6 language about helpful arranges and estimates and that
7 sort of thing.

8 Q. The earlier exhibit that broke down the cost
9 estimates proposal-by-proposal, that was any attempt
10 made to try to break these aggregate amounts down
11 according to programs, like general apportionment,
12 Special Education, bilingual, et cetera?

13 A. No.

14 Q. Why not?

15 A. I don't remember the specific reason for that.
16 I truly do not remember the specific reason for that.

17 Q. That was any attempt made to estimate school
18 district by school district the effects that these
19 might have on the revenue picture for those school
20 districts?

21 A. When I started on the project building the
22 model, I had that goal in mind.

23 The idea was that it would -- that the model
24 would kind of percolate up from school level to
25 district data, from district data to State data. The

1 State number would be based on the School District
2 data.

3 Therefore, when I had aggregate number, I would
4 also have district by district data.

5 Part of the challenge of doing that is there is
6 information that you need to develop rigorous school
7 and district level estimates that you don't
8 necessarily need to do an aggregate cost estimate:
9 the difference between how money disburses by
10 district, as opposed to how much money is going out in
11 the aggregate.

12 I mentioned earlier about the fact that in the
13 development of these proposals, the policy makers were
14 still, I think probably appropriately so, focused on
15 the big, big policy issues, about how to frame
16 aggregate costs.

17 There are some very important issues about how
18 the money is distributed between districts that were
19 really never fully flushed out and decided upon, that
20 are really key to being able to estimate it on a
21 district-wide basis.

22 Staff mix, which is a term that refers to how
23 you, whether or not the State, essentially, subsidizes
24 differences in the experience of staff. Like one
25 district has a very experienced Task Force and of

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1 another district as a less experience Task Force, does
2 the State just allocate equal amounts to each district
3 and ask them to manage within that amount, or do they
4 essentially subsidize and say that "you hire the
5 experienced staff that you need. We will pay what for
6 whatever you end up hiring that makes sense."

7 Issues like that were never fully -- fully
8 flushed out and decided.

9 Because those are integral to developing
10 district-by-district results -- that is just one
11 example, there are others -- I never really got to the
12 point where I was able to develop any district-by-
13 district or school-by-school results with a rigor that
14 I was comparable with.

15 So I ended up doing kind of a side projection,
16 because the model, as I said, kind of percolates up
17 from school to district and district to State. I kind
18 of end up dealing with a side model that dealt with
19 aggregate figures and cross-compared the two.

20 I knew if I was significantly off in the results
21 of these two, that that was a red flag that I would
22 need to go track that down. I was never significantly
23 off.

24 So what we ended up with was state-wide results
25 and that was the ultimate product.

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1 Q. So you never ended up with any district-by-
2 district information for this?

3 A. That is not exactly true.

4 Q. Tell me what is exactly true.

5 A. What is exactly true is I ended up with a model
6 that generated district-by-district results, but I
7 didn't rely on those district-by-district results.

8 I was not comfortable with them and didn't
9 publish them for the reasons that we have just
10 discussed.

11 The model does have district-by-district results
12 in it. I did, in your words, produce information.

13 But I never published it or I never printed it
14 out, or used for policy making discussions for all of
15 the reasons that we discussed.

16 Q. In the modeling that you have described, I take
17 it, in your last answer, is something that is still
18 pretty much like on the computer, as opposed to in a
19 paper file or something?

20 A. Yes. The models is one of the things that is
21 not a -- it is not, you know, it was not built to be
22 printout.

23 The print version of it is not of use. You
24 know. It is like a calculator.

25 So, no.

1 Q. We get the answer, but we don't pay any
2 attention to the man behind the curtain, I take it?

3 A. Yes.

4 There was one point at which I produced a kind
5 of a -- I don't know what to call it -- a little
6 overview document to give people a feel for what it
7 did, but it wasn't the model itself. It was kind of
8 a -- I don't know what to call it, an overview.

9 Q. All right.

10 I want to go next to Exhibit 1483. Have you
11 been able to locate Exhibit 1483, Mr. Rarick? If not,
12 I will wait until you catch up to me.

13 A. I am there.

14 Q. Could you identify Exhibit 1483, please?

15 A. Exhibit 1483 was an exercise that you asked me
16 to perform the math for. So I was performing a
17 costing exercise for some assumptions that you made
18 about the system.

19 Q. All right.

20 What was the point, as you understood it, of
21 doing this exercise? What were you costing out, or
22 estimating?

23 A. Well, you approached me about looking at the
24 aggregate costs of the House Bill 2261 under certain
25 assumptions and looking at estimates of how much could

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1 be attributed to each particular piece, like a
2 component analysis.

3 So the items on the left reflect assumptions
4 that -- you are listing and ordering of the things
5 that you wanted costed, the particular components.

6 Q. All right.

7 The title of the documents says "2009 Revised
8 Omnibus Operating Budget, 2000 Supplemented Enacted,"
9 et cetera.

10 What does that mean?

11 What relationship does that title have to do
12 with this document?

13 A. Well, in fact, this was document that I worked
14 on that I never actually printed out. I didn't
15 realize that it had this header.

16 The header is not exactly apropos. But the
17 2007, 2008 is the year for which the costing is cast,
18 but it is not the enacted budget. I was working in
19 the spreadsheet that had the header and the header
20 printed out and I didn't realize it.

21 Q. If you were to try to characterize it today,
22 what would you feel is a more appropriate title for
23 this document?

24 A. I would say:

25 "Estimates of the Incremental Costs of

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1 Components of House Bill 2261 Under Certain
2 Assumptions As Provided By Counsel."

3 Q. All right.

4 The first line item on the left-hand most column
5 states "HB 2261 Under Various Assumptions."

6 What assumptions go into the analysis with
7 regard to that component?

8 A. So you can think of that particular row as kind
9 of the baseline. It is -- so conceptually, it is what
10 is the total costs of the House Bill 2261 under these
11 certain assumptions.

12 Then as you move through the list of the
13 components, it is incrementally taking amounts off of
14 that total to show that you the incremental impact of
15 total of those decisions.

16 Q. Was this 2261, as passed by the legislature, or
17 2261 as enacted after the partial veto by the
18 governor?

19 A. It reflected -- I just want to be clear, first
20 of all, that this is not the cost of a gross
21 substitute House Bill 2261.

22 Q. All right.

23 A. All right.

24 This is not the cost of the law as it reads
25 right now, all right.

1 What this is, is a cost of what that law could
2 cost, under the various assumptions that are listed.
3 The assumptions that are listed are not enumerated in
4 the law right now. All right.

5 Q. All right.

6 Let's, let's me ask you a specific question.

7 What assumption did you make, if any, in doing
8 this cost estimate about Early Learning as a
9 component?

10 A. All right.

11 So because of the per pupil nature of this, the
12 Early Learning amount was excluded. In other words, I
13 was working from a model that includes K to 12 pupils,
14 not Early Learning pupils. So that it would confound
15 the denominator, if you will, so that that became out
16 of the exercise.

17 Q. All right.

18 Are you aware of whether or not 2261 is, as
19 signed by the governor, had any Early Learning
20 component in it?

21 A. There was a veto message with regards to the
22 Early Learning, and an assignment to the Department of
23 Early Learning, and other State courts to develop
24 further proposals about what a proposal for all
25 students would look like.

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1 Q. Was the -- did the assumption for that top
2 line -- HB 2261 that yields an estimated per pupil
3 cost of \$9710 -- did that incorporate any of the Lori
4 Taylor's analysis that you mentioned earlier in your
5 testimony and related to the Task Force report?

6 A. No.

7 It incorporated that step that we talked about
8 where there were no comparable wage adjustments, but
9 it did include the learning improvement days.

10 Q. As of the Task Force did?

11 A. That's right.

12 Q. What assumption, if any, was made with regard
13 to a transportation component, pupil transportation
14 component?

15 A. Well, there was an adjustment made on the final
16 row, if you will, of this document attempting to show
17 an estimate of the incremental impact of moving from
18 one method of transportation to another.

19 Q. All right. The bottom line that reference
20 transportation talks about substitute unit cost model.

21 Are you aware of what the unit cost model is a
22 reference to?

23 A. Yes.

24 I am going to reiterate my caveat about this
25 being not directly part of my work portfolio at work,

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1 but I am happy to answer the question.

2 Yes, so my understanding is that the model that
3 was recommended by the Transportation Work Group, I
4 think was their name, was the work group or the Task
5 Force, was an expected cost model that is based on a
6 regression analysis derived from different
7 characteristics of each school district and what might
8 the transportation costs of the students of those in a
9 district with those characteristics expect it to be.

10 Then so this moves from that expected cost model
11 to a unit cost model, which does not rely on the same
12 regressions statistical technique.

13 Q. I want to hand you -- you may use to use these
14 together. I won't take the other exhibit away.

15 Please look at Exhibit 356. Could you turn to
16 page 2 of Exhibit 356; Mr. Rarick. On --

17 A. Counsel, is it actual page 2 or the --

18 Q. Yes, actual page 2.

19 I should make clear for the record that the
20 first page is a cover letter from Victor Moore, to
21 various addressees, beginning with the second page
22 there is a study by Management Partnerships Services,
23 Inc.

24 Are you generally familiar with this study?

25 A. I am generally familiar.

1 Q. This related to an analysis of options for a
2 different way of funding K-12 pupil transportation;
3 correct?

4 A. That is my understanding.

5 Q. Turning to page 2 of the reports, if you would.
6 It is actually page 2 of the executive summary. There
7 are discussions of two options there.

8 Do you see where I am referring?

9 A. Yes.

10 Q. Option number one is the unit cost model. Is
11 that, in fact, the model that is referenced on last
12 column of assumptions and in Exhibit 1483?

13 A. Yes.

14 Q. Option number two, in Exhibit 356, is the
15 expected costs model. Where, if at all, does the
16 expected cost model -- the multiple regression
17 equation, as it is described in Exhibit 356 -- where
18 are does the expected cost model factor in, if at all,
19 in your analysis, in Exhibit 1483?

20 A. So that the baseline included the projected
21 costs of the expected model and then the last
22 incremental change moves from the cost of the expected
23 model to the cost of the unit model. So you will note
24 there that it projects to be about a \$12 per student
25 difference, roughly.

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1 Q. So we are clear, if you turn to page 3 of
2 Exhibit 356, there is graphic information about the
3 comparative effects of the current transportation
4 model, the unit cost model and the expected cost
5 model; is there not?

6 A. Yes.

7 Q. Let me try to close out this issue by handing
8 you yet another exhibit book. I will take the one
9 back from you that is on your lap and give you this
10 one.

11 I am going to Exhibit 1524 so that everyone
12 knows. Exhibit 1524 is a final bill report for the HB
13 2261. Are you with me?

14 A. I am.

15 Q. I want to go to page 9 of Exhibit 1524, with
16 the reference to pupil transportation.

17 Are you with me?

18 A. I am.

19 Q. Pupil transportation -- the first sentence
20 says:

21 "New pupil transportation funding formula is
22 authorized using a regression analysis to
23 allocate funds to school districts."

24 Is that a reference to the expected cost model
25 that is described in Exhibit 371?

1 A. Yes.

2 MR. EMCH: What page?

3 MR. CLARK: Page 9, counsel.

4 BY MR. CLARK:

5 Q. Now, I want to hand you Exhibit 371. We won't
6 spend much time on this document, either, but I will
7 take Exhibit 1524 back from you.

8 A. All right.

9 Q. Do you recognize Exhibit 371?

10 A. I do.

11 Q. Exhibit 371 is the report by Dr. Lori Taylor?

12 A. It is.

13 MR. CLARK: Your Honor, we would offer
14 Exhibit 371. I don't believe that there is objection
15 outstanding to it.

16 THE COURT: Exhibit 371 is offered.

17 MR. EMCH: No objection, your Honor.

18 THE COURT: Exhibit 371 is admitted.

19 (Exhibit No. 371 received in evidence.)

20

21 Q. Mr. Rarick, could you turn to page -- we have
22 two numbers again. There has to be a law about
23 consistent numbering, your Honor. I think that would
24 be the next case.

25 Page 12 of the report, but I think that the

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1 bates number is actually 13. The third full
2 paragraph, starting with the phrase "of course," is a
3 discussion of the 10-month school year situation that
4 you have referred to earlier in connection with the
5 discussion of Dr. Taylor's work.

6 My question is the sentence is, "of course, the
7 average college graduate given a 10-month school year
8 assuming the appropriate frame of reference," so
9 forth, reviewing that text, did this information have
10 anything to do with the Exhibit 1483?

11 If did I give you enough direction?

12 A. Yes, I think so.

13 In Exhibit 1483 counsel asked me to incorporate
14 an assumption about no additional teacher salary
15 increases, save for those associated with the
16 additional Learning Improvement Days recommended by
17 the Task Force.

18 I guess that the answer would be, no, that the
19 particular recommendations of this study were not
20 incorporated into that analysis.

21 Q. All right.

22 Was that also true of the cost estimate that you
23 did for all of the proposals that was in Exhibit 337,
24 that had only incorporated the lid days.

25 It didn't incorporate actual compensation salary

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1 increases, rather, for teachers?

2 A. Yes.

3 I hesitate just for a second on one of those
4 proposals that was true of the legislative proposal.
5 I hesitate just for a moment on the Full Funding
6 Coalition proposal.

7 I am nearly certain that it excluded any salary
8 increases associated with the Dr. Taylor study, or any
9 other study for that matter.

10 Q. I took Exhibit 124 away from you. I did that a
11 little too early, although we can't stack too many
12 books up here.

13 Let me take the one that you have and I will
14 give you this one back.

15 A. All right.

16 Q. Let's go back to page 24 of the Task Force
17 Report, Exhibit 124.

18 A. Can you repeat the page, counselor.

19 Q. Page 24 of Exhibit 124.

20 A. I have found it.

21 Q. My question is this -- going back to the range
22 of estimates that is in the last full paragraph on
23 page 24, of the Task Force Report and recommendations,
24 what relationship, if any, does your costing out
25 exercise in Exhibit 1483, relative to 2261, have to do

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1 with the ranges, or costing out information that are
2 on page 24 of the Task Force Report?

3 A. Well, the page 24 reflects those three levels
4 that we talked about.

5 The first level is the level that excludes
6 teacher salary increases excepts for the lid days.
7 That is consistent with the assumption that was put
8 into Exhibit --

9 Q. 1483?

10 A. -- 1483 as the House Bill 2261 under various
11 assumptions.

12 Q. All right.

13 In which range, if any, does Exhibit 1483 fit
14 with reference to Exhibit 124 on page 24?

15 When you said "that," I want to know what the
16 that is?

17 A. Oh, sure, the first step if you will, on page
18 24 -- what is this Exhibit Number again?

19 Q. Exhibit 124, page 24?

20 A. Exhibit 124, page 24, when it references the
21 levels of 7.5 billion per biennium later in the
22 paragraph 6.3 billion per biennium.

23 That is the salary level commensurate with the
24 salary levels could in Exhibit 1483, costing out under
25 House Bill under various assumptions.

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1 Q. In Exhibit 124, let's turn to page B-3.

2 Task Force Report is an Appendix B, Mr. Rarick,
3 the third page, B-3. So we are all on the same page
4 the section that I am going to is: "Procedure Used to
5 Analyze the Zero Based Research Proven Option."

6 Have you got it?

7 A. I am there.

8 Q. There are a series of research proven criteria
9 that are reflected on B-3 and B-4.

10 My question to you is what relationship do those
11 criteria have, if any, to the various assumptions that
12 are made in Exhibit 1483?

13 MR. EMCH: Objection, your Honor; lack of
14 foundation, assuming that this witness worked on this
15 particular portion of the report.

16 MR. CLARK: Let me ask the question again.

17 THE COURT: All right.

18 MR. CLARK: Maybe it wasn't clear.

19 BY MR. CLARK:

20 Q. What relationship if any, did the research
21 based -- excuse me, research proven criteria, that are
22 referenced on page B-3 of Exhibit 124, what
23 relationship, if any, do those criteria have to the
24 assumptions or items listed by you in Exhibit 1483?

25 MR. EMCH: Same objection; lack of

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1 foundation as to this report.

2 THE COURT: I think that the objection is
3 that this witness may or may not be familiar with the
4 assumptions or analyses made on B-3. That is the
5 objection.

6 MR. CLARK: Let me ask that question.

7 THE COURT: His lack of foundation.

8 BY MR. CLARK:

9 Q. Are you familiar with the interventions or
10 criteria that are listed on pages B-3 and B-4 of
11 Exhibit 124?

12 A. I am familiar with them in the sense that I
13 have read the report. I have had discussions with the
14 individuals who wrote the report.

15 But I was not an author, co-author by any means
16 of this report.

17 Q. All right.

18 Let me ask you this, did you use any of the
19 information about these criteria in Exhibit 124, in
20 doing your analysis that is Exhibit 1483?

21 A. Did I use any of this information?

22 The answer to that is no.

23 Q. Let me ask you this.

24 These are criteria, class size reduction?

25 A. Yes.

1 Q. What relationship, if any, does the class size
2 reduction have to the information that is in 1483?

3 A. All right.

4 There is a number of the assumptions that
5 counsel asked me to incorporate in Exhibit 1483, that
6 are also listed here in this report on page B-3
7 extending into B-4 and I think for the remainder of
8 the report for that matter.

9 Q. All right.

10 MR. CLARK: Your Honor, we will offer
11 Exhibit 1483.

12 THE COURT: Exhibit 1483 is offered.

13 MR. EMCH: Just a moment, your Honor.

14 No objection, your Honor.

15 THE COURT: Exhibit 1483 is admitted.

16 (Exhibit No. 1483 received in evidence.)

17

18 BY MR. CLARK:

19 Q. All right.

20 Let's make it clear for the record, then. Tell
21 us what is going on from the top line of HB 2261,
22 under various assumptions with each subsequent line.

23 What is occurring with this document?

24 A. We are on 1483 --

25 Q. Yes?

1 A. Can I put this away?

2 Q. I will do better than that, I will take it from
3 you. Thank you.

4 A. All right.

5 So, what happens in this document is that I
6 perform a math in this document. Counsel provided
7 certain assumptions and the assumptions are tied to
8 certain components that are presume to be included in
9 House Bill 2261.

10 I say that, because it is House Bill 2261 --
11 under certain assumptions, I think that we went over
12 the point that a lot of these particular values are
13 not enumerated in House Bill 2261, what is now the
14 law. But for the costing exercise they are presumed
15 to be.

16 As you moved down the list of the column marked
17 "items," the top line as we talked about reflects a
18 fully funded model, if you will, under the various
19 assumptions excluding early childhood and it moves
20 down the list to begin to exclude certain things.

21 The first thing that it excludes is all of the
22 learning improvement days and second thing that it
23 excludes is professional development, non-salary
24 related costs. The lists continues.

25 You are -- the sheet is developed in such a way

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1 as to kind of see a rough estimate of the incremental
2 impact of some of these particular components.

3 Q. I notice under "NERC Instructional Professional
4 Development, "the next several steps that are taken
5 until you get down to the professional development
6 coaches are adjustments in class size; correct?

7 A. Yes.

8 Q. All right.

9 When we get to the Professional Development
10 Coaches, what are Professional Development Coaches,
11 Mr. Rarick?

12 A. Professional Development Coaches are typically
13 certificated staff that play a role in providing job
14 embedded professional development within a school.

15 The current system funds, what is called lid
16 days, Learning Improvement Days, which are typically
17 professional improvement days provided at the
18 beginning of or the end of the school year.

19 Professional development coaches are sometimes
20 full-time coaches, sometimes they are part-time
21 teachers, part-time coaches.

22 They do such things as provide instructional
23 modeling within a school, provide certain mentoring
24 activities to new teachers within a school; facilitate
25 collaborative planning within the school context.

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1 Otherwise, play a role in kind of a leading the
2 ongoing job embedded professional development of the
3 school.

4 Q. All right.

5 On the estimated "per pupil" cost column, as a
6 footnote one designation next to the costs.

7 Can you tell us what information is footnoted to
8 qualify that column?

9 A. Can you direct my eye, counsel, what -- how far
10 down are we talking.

11 Q. Yes, underneath the "costing-out analyses,"
12 underneath substitute "unit cost model," I believe
13 that footnote one is there totals do not include -- do
14 you see what I am referring?

15 A. Yes.

16 Q. Does that, in fact, match up to the estimated
17 per pupil cost column?

18 A. Yes.

19 Q. What is it indicate about that column?

20 A. It is merely indicating that there were, as we
21 had earlier discussed, a couple of items that were
22 excluded for the purposes of the analysis.

23 Q. The second footnote indicates "costs per item
24 are sensitive to the order in which they are included
25 in the model."

1 Could you briefly describe what that means?

2 A. All right.

3 So any time that you do an analysis of this
4 kind, it is very important not only the components
5 that you choose, but also it is important that the
6 order in which you cost them.

7 For example, suppose you are entertaining a
8 proposal that both increases the number of teachers
9 and the amount that you pay the teachers. Depending
10 upon what order that you cost those, the teachers will
11 cost different amounts.

12 So, for example, if an analyst reflected a cost
13 increase or salary increase, like as would be
14 reflected in like an increased Learning Improvement
15 Days, then that teacher would be more expensive, when
16 you subsequently show a reduction or an increase in
17 the number of the teachers.

18 If the inverse is true, then the inverse would
19 be true in terms of the cost as well.

20 Q. All right.

21 Would you take us through the rows that start
22 with the -- not rows -- the column titles "estimated
23 item costs per pupil," et cetera, going to the right
24 and briefly indicate for the record what those columns
25 indicate or what they do.

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1 A. Okay, from left to right starting with the
2 second column, says "estimate per pupil costs," that
3 is self explanatory, I think.

4 The estimated item cost per pupil is trying to
5 show the incremental impact of the particular
6 components on the per pupil basis.

7 The next column is showing the estimated
8 aggregate total costs. You will see a baseline figure
9 of approximately \$9.7 billion in there.

10 Then moving left to right again, the estimated
11 aggregate difference for each item.

12 Then the final column is estimated cumulated
13 difference per pupil, every time that you are making a
14 change, that per pupil cost is growing and is
15 cumulative in nature.

16 Q. I have a few more exhibits to cover with you,
17 Mr. Rarick. But I think that we are done with 1483.

18 Let's go next to Exhibit 330. Have you located
19 Exhibit 330?

20 A. I have.

21 Q. Could you identify Exhibit 330 for the record,
22 please?

23 A. Exhibit 330 appears to be a copy of a
24 presentation that I gave in January to committee
25 members at the beginning of the session.

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1 Q. All right. What was the purpose of giving this
2 PowerPoint presentation to the committee members in
3 late January of early 2009?

4 A. Sometimes I am asked by the chair to do kind of
5 a broad educational presentations to build a
6 foundation of knowledge for all of the members of the
7 committee.

8 So I have taken to calling that presentation the
9 nuts and the bolts presentation. Because it just kind
10 of is intended to be kind of a walk-through of the
11 system, giving members easy concepts to latch onto, in
12 terms of how the system work.

13 Q. This is at the outset of the legislative
14 session?

15 A. January 27th would be relatively early in the
16 session.

17 Q. All right.

18 Would I be correct in describing this as sort of
19 a primer on the nuts and bolts of our K-12 public
20 school funding system?

21 A. I think that is reasonable.

22 Q. For returning legislative that is refresher
23 presentation; correct?

24 A. In a sense, yes.

25 Q. For new legislators, let's hypothesize, let's

1 imagine a new legislator, who comes in with very
2 little experience and knowledge of the K-12 public
3 school funding system and is expected to get up to
4 speak thoroughly on that subject matter over the
5 course, of maybe six-weeks or eight-weeks or 10-weeks.

6 This is a primer designed to, in effect, lead
7 them, you know, into the task that they will be doing?

8 A. Yes, I think that is reasonable.

9 MR. CLARK: Your Honor, we would offer
10 Exhibit 330.

11 THE COURT: Exhibit 330 is offered.

12 MR. EMCH: No objection to Exhibit 330.

13 THE COURT: Exhibit 330 is admitted.

14 (Exhibit No. 330 received in evidence.)

15

16 Q. Mr. Rarick, did you, in fact, make this
17 presentation?

18 A. I believe that I did.

19 Q. All right.

20 Let's go to the second page of Exhibit 330,
21 which is the overview. This, basically, identifies
22 the two parts of the presentation that you are making,
23 the foundation of knowledge and tracking certain data;
24 correct?

25 A. Correct.

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1 Q. Part one is identified on the next page. It is
2 the formulas. What formulas are we talking about?

3 A. The basic formulas for how the State funds
4 public schools.

5 Q. All right.

6 This is the current system, correct?

7 A. Correct.

8 Q. Let's go to the next page of Exhibit 330. We
9 will see an old friend the General Apportionment
10 Chart.

11 To you recognize this as the same chart that is
12 in Exhibit 1406?

13 A. I do.

14 Q. It gives a basic almost K-12 funding for
15 dummies type approach to how the general apportionment
16 formula works?

17 A. Yes. So that let the record reflect that the
18 witness would never refer to the legislators as
19 dummies.

20 Q. Neither would counsel suggest that is
21 appropriate for the Court or the court staff.

22 Next we deal with certain factors in the next is
23 the enrollment in the next page; correct?

24 A. Correct.

25 Q. Then there follows a discussion of factor two,

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1 which is the description of the various -- three types
2 of staff units that we deal with in general
3 apportionment; correct?

4 A. Correct.

5 Q. Factor three, on the next page, discusses the
6 salaries and benefits with particular information that
7 pertains to each class or subclass of the school
8 districts staff; correct?

9 A. Correct.

10 Q. Next is the NERC formula factors; correct?

11 A. Correct.

12 Q. We turn the page to page 9, slide up 9, we have
13 additional amounts for higher costs students. These
14 deal with categorical programs for students with
15 individualized needs that may require additional
16 funding to the Basic Education computation; correct?

17 A. It is, with one exception.

18 Q. That would be --

19 A. The Learning Assistance Program is not a
20 categorical program that is an individual student
21 level entitlement.

22 That is money that is allocated to school
23 districts based on the poverty factor. The districts
24 decide which students get that. The other program --
25 actually highly capable is the case as well.

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1 In the case of a bilingual particular, you are
2 talking about a particular kid.

3 Q. The next slide, slide 10, gives us a summary of
4 points pertinent to the Local Effort Assistance;
5 correct?

6 A. Correct.

7 Q. That is the State program that you identified
8 and discussed with us yesterday?

9 A. Correct.

10 Q. It contrasts property poor districts with
11 property wealthy districts to get some flavor for the
12 contrast that this issue, or program, rather, the LEA
13 program, tries to address?

14 A. Correct.

15 Q. On page 12 is a summary discussion of the pupil
16 transportation formula; correct?

17 A. It is.

18 Q. Below is a flow chart, I guess, we would call
19 it. I don't think that it is the stack bar chart --
20 that gives us an example of one basic student on a
21 two-mile bus route.

22 It tells you the factors that come into play and
23 what the funding for that student would result.

24 A. That is correct.

25 Q. We have a discussion on slide 13 with reference

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1 to the formula as to why some districts get more money
2 than others, starting with the grandfather issue that
3 is the subject of other's testimony in the case.

4 Do you recognize these as other factors that you
5 are identifying for legislators that pertain to the
6 question of why do some districts get more money than
7 others.

8 A. Is the question -- could you clarify the
9 question is that what the purpose is? Is that what
10 the question is?

11 Q. Yes.

12 A. Yes.

13 Q. The next to the last item says "local
14 deductible revenues, for example, timber sales." For
15 the record can you explain what that reference is?

16 A. Sure.

17 On the bottom of --

18 Q. Page 13; yes.

19 A. -- page 13.

20 So there are certain revenues that go directly
21 to local school districts that are treated as
22 deductions against State allocations. This stretches
23 back in history a bit.

24 But the idea being that there are certain
25 districts that have certain built in revenue sources

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1 in their community, like, for example, the existence
2 of timber.

3 And the sale of that timber in the community, if
4 it is on State or federally owned land, there are
5 certain proceeds that go to the County and eventually
6 flow through to the school districts.

7 The way that the State treats that, however much
8 money comes from the proceeds of the timber to the
9 school districts, is deducted against the amount that
10 the State would otherwise provide that district.

11 So, in rough numbers here, if the State was
12 going to allocate you \$100,000 in general
13 apportionment, but there was \$10,000 in proceeds that
14 ultimately made its way to the school districts, then
15 it would be deducted from the \$100,000 and the State
16 would be sending \$90,000.

17 Q. Would this only pertain to timber sales owned
18 by the State or the federal government?

19 A. As it relates to this bullet, yes.

20 Q. The next slide, slide 14, introduces this to
21 part 2, which is selected spending and funding
22 statistics. I don't want to spend time on that.

23 Let's move to the next slide, slide number 15,
24 and identify for the record what slide 15 depicts?

25 A. Slide 15 is a format that I have chosen to keep

1 the members of the committee abreast of case load
2 changes and what members can expect in the way of
3 increasing or decreasing K-12 enrollment.

4 Members are very interested in this information,
5 because this obviously drives significant budgetary
6 expenditures.

7 Q. All right.

8 Let's go to the next slide, slide 16, the
9 overview of K-12 State funding.

10 Could you just identify for the record, for the
11 Court, what the graphic information on slide 16
12 conveys?

13 A. This is typically a -- a typical kind of a
14 structure that K-12 analysts have used to show a high
15 level representation of total aggregate K-12 revenues
16 and then to break up those revenues into two groups,
17 Basic Educational programs and non-Basic Educational
18 programs.

19 It is not a complete list of Basic Education
20 Programs in the greatest level of granularity, but it
21 provides a conceptual overview of the distinctions
22 between the two.

23 Q. I notice that the chart has a date, slide 16
24 rather, has a date of January 19, 2009; which predates
25 the January -- later January date on the cover page.

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1 My question is this: Did you develop this
2 information, or prepare this particular slide?

3 A. I think that I did. I think that I was the
4 author of this information.

5 Q. As of January 2009, we haven't enacted anything
6 for the 2009-2011 K-12 funding; have we?

7 A. No, we haven't.

8 So this would reflect what, you see it there at
9 the top "maintenance level estimates," and what a
10 maintenance level budget is, is merely a projection of
11 what would the costs be of maintaining programs from
12 the prior year and absorbing any costs, or indeed, any
13 savings associated with the changes in the number of
14 the students that show up, or other similar kinds of
15 what is called case load cost drivers.

16 Q. If you would recall, when did you prepare
17 slides, the information that is contained in the
18 slides 16?

19 A. I honestly don't know.

20 I can just say what typically happens is that I
21 usually develop a chart like this, maybe in December,
22 as we are ramping up for the committee assembly. I am
23 getting case load updates.

24 Then sometimes it is updated in the middle of
25 the session, when we get our subsequent case load

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1 updates.

2 So it is refreshed a couple of times during the
3 session, usually.

4 MR. CLARK: Should we break now, your
5 Honor.

6 THE COURT: Let's do that. We will take
7 our morning recess now for 15 minutes.

8 Mr. Rarick will be continuing; is that
9 correct, Mr. Clark?

10 MR. CLARK: Yes, your Honor.

11 THE COURT: Very good. We will take our
12 recess.

13 THE CLERK: All rise.

14 (Court was recessed.)

15 (Open court.)

16 THE BAILIFF: All rise. Court is back in
17 session.

18 THE COURT: Please be seated.

19 Mr. Rarick, please retake the witness
20 stand, please.

21 Mr. Clark.

22 BY MR. CLARK:

23 Q. Mr. Rarick, we were on Exhibit 330. Is that
24 still in front of you?

25 A. It is.

1 Q. The chart overview of K-12 State funding the
2 estimate, I want you to hang on to that information.
3 I am going to hand you a volume with Exhibit 617 in
4 it. I would ask you to turn to Exhibit 617 for us.

5 Have you located it?

6 A. I have.

7 Q. I will tell you Exhibit 617 was admitted
8 through the testimony of others in the case.

9 It was described as the 2009-2011 Basic
10 Education Programs Final Budget -- Final Enacted
11 Budget.

12 I want to contrast it with slide 16 in Exhibit
13 330. So if you have got both of those renditions --

14 A. I do.

15 Q. -- your PowerPoint, Exhibit 330, the subtotal
16 for Basic Education Programs, is \$12,448,100,000; is
17 that correct?

18 A. Correct, it is.

19 Q. The same subtotal in Exhibit 617 is less than
20 that, it is \$12,218,000,000.

21 My question is, what is the reason for the
22 difference in the two amounts?

23 A. There could be a number of different reasons.

24 The Basic Education revenues are driven by a
25 number of cost factors, and formulas. As those

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1 factors or formulas change, so do the aggregates.

2 Sometimes those factors go down.

3 In going down, that isn't necessarily reflecting
4 of a cut to the program of Basic Education. It
5 reflects a reduction in the aggregate revenue being
6 provided for the Basic Education.

7 Q. One of the factors that could go down would be
8 student enrollment, for example?

9 A. Enrollment is one example of something that
10 could go down.

11 Another is the Basic Education formulas reflect
12 assumptions about the staff units and the cost of
13 those staff units.

14 One of the costs, of course, are the costs of
15 health insurance, or, indeed, the cost of the pension
16 plans.

17 So as one example, the employer contribution
18 rates for the pension plans, which is a significant
19 part of the allocation that goes to school
20 districts -- all right, here is the cost of the salary
21 for the stuff, but here is also the costs of the
22 contribution rate associated with having this person
23 in the public pension system.

24 Those rates went down, appreciably. So that
25 that would reduce the amount of money that is

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1 allocated to a school district, but wouldn't
2 necessarily reduce the program level itself.

3 Q. Do you believe that it is one of the reasons
4 why the amounts in your slide 16, of Exhibit 330 for
5 Basic Education Programs, is higher than the amount in
6 the ultimately enacted budget for Basic Education
7 Programs?

8 A. Yes, I believe that is one reason.

9 Q. Are there any others that come to mind, in
10 addition to possibly enrollment, but definitely this
11 pension reduction factor -- any others that come to
12 mind?

13 A. Those are the two largest factors that I can
14 think of at the moment.

15 Q. All right.

16 Let's continue with Exhibit 330. Next go to
17 slide 19, "per pupil spending overtime."

18 A. So I can put this one away?

19 Q. Yes. I can help you in that regard.

20 Next we go to slide 19 of Exhibit 330.

21 We saw a similar slide yesterday in Exhibit
22 1406. For the record, could you identify what slide
23 number 19, of Exhibit 330 does for us.

24 A. This is a chart that is published in the
25 "Citizen's Guide for K-12 Finance."

1 I actually didn't do this slide, but I have
2 incorporated that slide into my presentation.

3 So, but what it does essentially, is it picks a
4 point in time and it traces the -- in this case, the
5 total per pupil per student pending. It would
6 incorporate, not only the state-side of things, but
7 also local and federal.

8 And it traces the trajectory of 1994 total per
9 student spending adjusted for inflation, adjusted, in
10 fact, for two commonly used factors of inflation,
11 relative to what is actually materializing in the
12 field.

13 So at the conclusion in the far corner, you will
14 see that actual total per student spending is
15 estimated in the 2008 year at about \$9,400. And then
16 the inflation adjusted trajectory for the 1994
17 spending level is less than that.

18 In the case of the consumer price adjustment
19 index, it is less than and then in the price deflator
20 is even further down.

21 Q. The next slide, slide 20, has similar
22 information for, but just for State funding sources;
23 correct?

24 A. Correct.

25 Q. Both slides 19 and 20 carry the information

1 conveyed through the year 2008?

2 A. Correct.

3 Q. Let me take you to slide 24 of Exhibit 330,
4 please. The information here refers to --

5 A. Counsel, say that page number again.

6 Q. Slide 24.

7 The subject matter is "Small School Districts
8 and How They Factor in." There is a various
9 information indicated here about the --

10 MR. CLARK: Should I wait, your Honor.

11 THE COURT: No, go ahead, please.

12 MR. CLARK: For the record, Exhibit 330,
13 slide number 24.

14 THE COURT: Correct.

15 BY MR. CLARK:

16 Q. There are various bullet points here that
17 provide information about some of the 295 school
18 districts that we have in Washington.

19 The last bullet item pertinent to small school
20 districts refers to 26 districts that had more than
21 \$20,000 per pupil in total revenues for 2007-2008.
22 However, none of them had more than 200 students.

23 Are you familiar with the subject of school
24 districts that actually get total revenues of \$20,000
25 per pupil in the State of Washington?

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1 A. Well, yes. I mean, I remember in the
2 preparation of this chart, I ran some data to produce
3 the chart.

4 Q. What message is this conveying with regard to
5 why these particular -- why these districts have as
6 much as \$20,000 per pupil in total revenues for their
7 students?

8 What is, in your knowledge and experience,
9 driving the per pupil revenue total that high?

10 A. All right. You first asked what the message
11 is, all right.

12 The only message here is to build awareness for
13 the members that small school districts are a
14 prominent part of the Washington State.

15 As it relates specifically to the issue of the
16 high per pupil revenues for these particular
17 districts. I was building awareness to the members of
18 the fact that our formulas include certain subsidies
19 for both small districts and small schools.

20 I guess that the way to explain it would be that
21 the allocation formula is based on staff ratios.

22 So, you know, I think in an earlier slide it
23 guess in the earlier grades, you get one certificated
24 instructional staff for 18.8, I think that it was,
25 pupils.

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1 If you have a district with 10 kids, then or,
2 indeed, 5.5 kids, as the case, in this particular year
3 was in Benge. Then there is some impracticalities
4 associated with having .362 of the teacher.

5 The formula tries to compensate for that fact by
6 employing certain minimum thresholds that schools or
7 school districts are brought up to.

8 The net effect of that is on a per pupil basis
9 the funding is, of course, substantially more than a
10 districts that is of any size.

11 So for districts with relatively small student
12 enrollments, the per pupil revenues could look rather
13 large. Although, of course, the aggregate revenues
14 are not that large, because you are not dealing with
15 that many students.

16 Q. That \$20,000 per pupil in total revenues the
17 small schools factor, or factors that you just
18 described, those are all factors in State funding;
19 correct?

20 A. The one that I am referencing that we just
21 discussed, yes, those are State funding subsidies;
22 that's correct.

23 Q. They don't generate additional local revenues,
24 due to the fact that they are small schools; do they?

25 A. That might not entirely be the case.

1 To the extent that a school districts levy base
2 is a function of both their State and federal funding,
3 larger State funding will inflate that base, and then
4 you are taking 24 percent of a larger number, which
5 provides more levy authority, and therefore, the
6 capacity of it to raise more money locally.

7 Q. The capacity, but it doesn't mean that the
8 capacity doesn't mean that they are actually going to
9 be able to raise that?

10 A. Correct.

11 Q. Small schools subsidiaries, that is not a
12 factor in federal funding is it?

13 A. To my knowledge, not in any real prominent way.

14 Q. Let's go to slide 27 in Exhibit 330, "tracking
15 districts with low fund balances."

16 These lists three, six, nine districts with,
17 apparently, fund balances below two percent. Is that
18 correct?

19 A. Correct.

20 Q. Are there any -- to the best of your knowledge,
21 is this list comprehensive about the districts in our
22 State that are in that category -- at least as of the
23 date of this slide.

24 A. Exactly.

25 As a point in time snapshot, this data comes, I

1 believe from the F-196. So whatever the F-196
2 reflected for the 2007-2008 school year, I believe it
3 to be a comprehensive list.

4 Q. All right.

5 There is a state-wide average figure of 7.5
6 percent; that is -- what does that figure mean?

7 A. I believe that that is the -- I honestly don't
8 remember if that is the weighted or unweighted
9 average.

10 But what is it reflecting generally is that on
11 balance, school districts have a total fund balance of
12 about 7.5 percent.

13 Q. So these districts with fund balances as of
14 this snapshot that is taken reflected in this data,
15 these nine districts are anomalous, when compared to
16 the state-wide average for fund balances; is that
17 correct?

18 A. I would say that they are -- I would say that
19 they are examples -- they are the lowest fund balances
20 in the State.

21 Q. I think that the volume that you have got has
22 Exhibit 334 in it.

23 I would like you to identify it for the record,
24 please.

25 A. Exhibit 334 appears to be a quick little

1 overview I did, for the education you on
2 Appropriations Committee on the student achievement
3 fund.

4 Q. Without going into it, would you describe this
5 as a basic primer for how you the student achievement
6 fund operates?

7 A. I would.

8 MR. CLARK: We would move for admission of
9 Exhibit 334.

10 THE COURT: Exhibit 334 is offered.

11 MR. EMCH: No objection, your Honor.

12 THE COURT: Exhibit 334 is admitted.

13 (Exhibit No. 334 received in evidence.)

14

15 Q. Let's conclude by going to Exhibit 335,
16 Mr. Rarick. Could you identify this document for us,
17 please?

18 A. I believe that this is a presentation that
19 Barbara McLain and I jointly gave to the Education
20 Appropriation and Education Policy Committees of the
21 House of Representatives as an overview -- as an
22 overview of what the Basic Education Task Force
23 recommendations were.

24 Q. All right.

25 MR. CLARK: We would move for admission of

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1 Exhibit 335, your Honor.

2 THE COURT: Exhibit 335 is offer.

3 MR. EMCH: No objection.

4 THE COURT: Exhibit 335 is admitted.

5 (Exhibit No. 335 received in evidence.)

6

7 Q. I want to turn your attention, Mr. Rarick, to,
8 I think that it is the last slide. I am looking for a
9 number without much success.

10 A. I am on the last slide.

11 Q. The last two slides, actually, have the same
12 title "Fiscal Considerations Regarding House Bill
13 1410."

14 Are you with me?

15 A. I am there, yes.

16 Q. What was House Bill 1410, briefly?

17 A. House Bill 1410 was in the earlier stages of
18 session. It was one bill that proposed to incorporate
19 some of the changes proposed by the Basic Education
20 Task Force into a new definition of a program of Basic
21 Education and the funding mechanisms to support it.

22 Q. All right.

23 Let's go to the last page, which continues the
24 discussion of fiscal considerations regarding House
25 Bill 1410.

1 The first bullet indicates a Phase-In period,
2 with the first year of implementation being the
3 2011-2012 year and completion of the Phase-In by the
4 2016-2017 year.

5 Is that what you recall of one of the provisions
6 of House Bill 1410?

7 A. Yes, to the best of my recollection, that was a
8 provision.

9 Q. Are you aware if House Bill 2261, the bill that
10 passed, has a Phase-In incorporated in its provisions?

11 A. Yes, it does.

12 Q. Do you know when the Phase-In for that bill is
13 expected to be completed under its terms?

14 A. I believe that the Phase-In schedule is
15 congruent.

16 Q. Congruent?

17 A. Yes, with what is represented here, a six-year
18 Phase-In beginning in 2011-12.

19 Q. The third bullet indicates that the task, the
20 House Bill 1410 contemplated a process of technical
21 working groups, working under the direction of a
22 Steering Committee.

23 Do you see that reference?

24 A. I do.

25 Q. Do you know if House Bill 2261 contemplates a

1 process of technical working groups -- never mind the
2 Steering Committee aspect -- but does 2261 also
3 incorporate a process of technical working groups?

4 A. It does.

5 Q. Moving to the prior page, just one bullet I
6 want to ask you a question about.

7 The third bullet on the prior page, the one that
8 says, "big picture, most of the financial cost is in
9 buying more teacher FTEs"?

10 A. I am not with you, counselor.

11 Page 19?

12 Q. If that is the one that - is the one that has
13 the big picture reference on it, yes. I don't have
14 any numbers.

15 A. All right.

16 Q. Let me show you what I am looking at.

17 A. All right. I am with you.

18 THE COURT: I am sorry, counsel, which one?
19 What does it say at the top?

20 THE WITNESS: It is the very last page.

21 THE COURT: It is the last page.

22 MR. CLARK: I had my pages mixed up, your
23 Honor.

24 THE COURT: What is the title on the top?

25 MR. CLARK: "Fiscal Considerations

1 Regarding House Bill 1410," the third bullet that I am
2 drawing his attention to is "Big Picture."

3 THE COURT: Got it. Thank you.

4 BY MR. CLARK:

5 Q. As far as you understand House Bill 1410, would
6 you agree that most of the financial costs in the
7 reform it contemplated, lay in buying more teacher FTE
8 positions?

9 In other words, adding more teachers to the
10 system?

11 A. Yes.

12 MR. CLARK: Thank you, Mr. Rarick.

13 That is all I have on the direct
14 examination, your Honor.

15 THE COURT: Mr. Clark, thank you.

16 We will proceed with the cross examination
17 by Mr. Ahearne -- I am sorry, Mr. Emch.

18 MR. EMCH: Thank you, your Honor.

19 THE COURT: I apologize.

20 Mr. Emch.

21 MR. EMCH: Thank you, your Honor.

22

23

24 CROSS EXAMINATION

25 BY MR. EMCH:

1 Q. Good morning, Mr. Rarick.

2 A. Good morning.

3 Q. We met during the deposition process, do you
4 remember that?

5 A. I do.

6 Q. Mr. Rarick, as part of your work I take it that
7 you have looked at the current Basic Education
8 funding formulas; is that right?

9 A. I have.

10 Q. Do you know what NERCs are; correct?

11 A. I do.

12 Q. You have looked at NERC expenditures that the
13 school districts make?

14 A. I have.

15 Q. Mr. Rarick, is the amount that the State funds
16 for NERC, or non-employee related costs, less than the
17 actual expenditures of the Washington State school
18 districts for those NERCs?

19 A. It is.

20 Q. The amount that the State funds for
21 certificated instructional staff salaries less than
22 the actual expenditures of the school districts for
23 those salaries?

24 A. Depending upon how you define that question.

25 Q. I am referring to --

1 A. If it is inclusive of total compensation,
2 including TRI-pay, the answer to that would be yes.

3 Q. That is what I was referring to.

4 So, in fact, the amount that the State funds for
5 certificated instructional staff salaries is less than
6 the actual expenditures that the school districts for
7 the salaries that you include, base pay and TRI-pay
8 and other types of non-TRI-pay; is that correct?

9 A. Correct.

10 Q. Mr. Rarick, is the amount that the state funds
11 for administrators less than the actual expenditures
12 for school districts for administrators?

13 A. It is.

14 Q. Finally, is the amount that the State funds for
15 the classified staff less than the actually
16 expenditures amounts that the State funds for the
17 classified staff?

18 A. It is.

19 Q. Mr. Rarick, Mr. Clark asked you about the Wally
20 Miller report, if we could take a look at that,
21 please, Exhibits 333.

22 THE COURT: He should have that on the
23 stand, counsel.

24 MR. EMCH: Thank you.

25 BY MR. EMCH:

1 Q. Looking at Exhibit 333, sir, this is the
2 document that you created; is that right?

3 A. I did.

4 Q. Is it accurate?

5 A. I believe that it is accurate to the best of my
6 abilities, having spent about six hours with the
7 report.

8 MR. EMCH: Your Honor, the petitioners
9 offer Exhibit 333.

10 MR. CLARK: No objection, your Honor.

11 THE COURT: Exhibit 333 is admitted.

12 (Exhibit No. 333 received in evidence.)

13

14 BY MR. EMCH:

15 Q. If you would turn to the last page, please,
16 Mr. Rarick.

17 The first sentence there says:

18 "The Miller Report portrays a system which is
19 broken by the rapidly increased reliance on the
20 special excess levies to stand fund standard exercise
21 programming."

22 Is that a sentence that you wrote, sir?

23 A. I did.

24 Q. You noted also in the next paragraph, in the
25 Miller Report, looking at the italicized portion, "The

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1 Miller Report could be construed as the first baby
2 steps towards standardized reform." Do you see that?

3 A. I do.

4 Q. Your next sentence went on to say that "the
5 report called for a way of measuring student
6 outcomes"; is that right?

7 A. Is that what it says is your asking me?

8 Q. Correct.

9 A. Yes, it says that.

10 Q. What is that what you wrote as well?

11 A. Ah-hum.

12 Q. Back in the 1970s, Mr. Rarick, a snapshot of
13 teacher salaries was taken resulted in some school
14 districts being grandfathered today at higher base
15 salary rates for teachers.

16 Is that true?

17 A. I am not sure that it happened in the '70s. I
18 think that it subsequently modified, but your premise
19 is correct.

20 Q. Historically, it happened?

21 A. It did.

22 Q. Do you think good teaching is important to
23 learning?

24 A. I am really not anxious to be offering personal
25 opinions as to the educational system, given my

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1 non-partisan status with the legislature and the
2 importance of me remaining neutral on a lot of this.

3 So, there are certainly lots of research that
4 reflect the fact that teaching can make an important
5 difference in the lives of kids.

6 Q. But based upon your work and what you have
7 reviewed, do you think that it is important to attract
8 and retain good teachers?

9 A. I think that is one important consideration in
10 the development of the educational system.

11 Q. Would you agree that the small rural districts
12 -- school districts -- often don't have the same
13 access as the larger school districts to qualify to
14 competent teachers?

15 A. I think that is true in some cases, yes.

16 Q. Mr. Clark asked you some questions about the
17 Joint Task Force for Basic Education Finance, and you
18 provided some support to the Basic Education Task
19 Force Finance Task Force; right?

20 A. I did. It would be more accurate that I
21 provided support to the legislative members that were
22 part of the Task Force.

23 Q. You weren't on the Task Force yourself?

24 A. No.

25 Q. The Task Force, over the course of its

1 proceedings and work, received a lot of input, held a
2 lot of hearings meetings, heard from a lot of people
3 and there is a lot of testimony; is that right?

4 A. They did.

5 Q. You didn't attend all of those proceedings; did
6 you?

7 A. Actually, I am not totally sure if I attended
8 all of them or not. I might have. I might have or
9 not. I certainly attended most of them.

10 Q. Can we take a look at the Trial Exhibit 1406,
11 please.

12 A. Is that a tab or a --

13 Q. Yes, this is -- it would be tab, I believe,
14 1406. It is the one that Mr. Clark asked you about
15 yesterday.

16 A. Is that a different binder?

17 Q. Probably would be a different binder. Let's
18 take a look at here.

19 THE COURT: It is volume XII, black binder.

20 THE WITNESS: I have volume XX.

21 BY MR. EMCH:

22 Q. Would you look at Exhibit 1406, please.

23 A. Sure.

24 Can I put away the other binder for now.

25 Q. If you put it to the side, I think that we

1 might go back to it.

2 A. All right.

3 Q. This presentation, I believe that you said that
4 you helped create with Mr. Moore; is that right?

5 A. That's -- yes. That's right.

6 Q. During the presentation of this particular
7 PowerPoint, you didn't make that presentation
8 yourself; did you?

9 A. I don't think that I did. I think Brian made
10 it.

11 Q. With respect to the Task Force work, the Task
12 Force members themselves, they were the final decision
13 makers with respect to the Task Force recommendations;
14 is that right?

15 A. I don't really know in terms of how the
16 original report was written and decided upon, what
17 that internal process is.

18 I mean, if you are trying to establish the fact
19 that the members are responsible for the report, I
20 guess that is an accurate statement.

21 Q. Fair enough.

22 If you could look at page 3, please.

23 A. Page 3 of the exhibit we are in?

24 Q. Yes, Exhibit 1406, page 3.

25 A. Yes.

1 Q. Looking at these two graphs, the numbers there
2 reflected on the top of the bar at end, are those
3 numbers, those amounts shown there, for State funding
4 for students, is that the total State funding amount,
5 including things like I-728 money, 732 money, other
6 discretionary money, or simply basic education Formula
7 Funding Program amounts?

8 A. I believe that is near general fund State; that
9 would include the other revenue source that you were
10 talking about.

11 Q. That is the same for both charts; is that
12 right?

13 A. Yes, except I believe that the second chart is
14 total funding in large, including local and federal.
15 It is including everything, except for perhaps
16 capital.

17 Q. All right.

18 If you could take a look at Exhibit 338, please,
19 I think that is in the first binder that have there?

20 A. This one over here?

21 Q. Yes.

22 A. All right. Yes.

23 Q. Have you got Exhibit 338 in front of you there?

24 A. I do.

25 Q. Did you interact with Elissa Griffin and WSIPP

1 personnel in connection with your support work for the
2 Basic Education Finance Task Force?

3 A. I did, yes.

4 Q. Is this the document, this e-mail, is this
5 something that you received in an and responded to in
6 the course of looking at the Basic Education proposals
7 for the Task Force?

8 A. I certainly received it and responded it. I
9 don't remember if it was in the course of reviewing
10 anything.

11 MR. EMCH: Petitioners offer Exhibit 338.

12 THE COURT: Exhibit 338 is offered.

13 MR. CLARK: I guess, your Honor, we
14 interposed a relevance objection.

15 THE COURT: All right.

16 MR. CLARK: I would standby the relevance
17 objection, your Honor. We would like a ruling on it.

18 I don't know that this light or no comment
19 is really pertinent to the case. Although I do admit,
20 it has the word Task Force in it.

21 For the record, we object on the grounds of
22 relevance.

23 THE COURT: I was assuming that it was
24 being offered for the substance underneath that
25 comment from Mr. Rarick.

1 MR. EMCH: Yes, your Honor.

2 I am offering it -- it is a document
3 related to the Basic Education proposals and I would
4 like to ask him some questions about this.

5 It refers to the Basic Education funding
6 Task Force options within the scope of his direct
7 examination.

8 MR. CLARK: Your Honor, we will drop our
9 objection.

10 THE COURT: All right. Exhibit 338 is
11 admitted.

12 (Exhibit No. 338 received in evidence.)

13

14 Q. Just so taking these in orders, Mr. Rarick, on
15 the top there, the phrase that Mr. Clark mentioned, it
16 says:

17 "On the lighter note, I should tell you that the
18 legislature will be a variable cornucopia of ideas of
19 the no-cost options!"

20 What did you mean by that?

21 A. Sharing a little humor. That is couple of
22 colleagues here that I know a little bit, Elise,
23 Roxanne and Steve work with these people, you know,
24 daily.

25 I think that this came up in the deposition. We

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1 had a good chuckle about it. I am surprised that you
2 not sharing the chuckle with us.

3 It was just reflecting the fact that we were
4 headed into a session, where the legislature was very
5 concerned about costs, because the revenues were going
6 down considerably.

7 I wasn't going to be surprised if the
8 legislature looked at the costs savings.

9 Q. Looking at the e-mail underneath there, it says
10 -- indication that -- Elise saw, Ms. Griffin had been
11 asked about the requirement that one of the Basic
12 Education Funding Task Force options was required to
13 be a current resources version; is that right?

14 A. Right.

15 Q. Did you actually work on that option?

16 A. No.

17 I think that Steve did, as part of the -- Steve
18 Oas, kind of created a -- if memory serves me, created
19 a section in the Task Force Report about exclusive of
20 additional resource increases, what components within
21 the system seemed to show the largest effect, in terms
22 of the student achievement.

23 And therefore, how might the legislature look at
24 prioritizing additional resources exclusive of the
25 additional resources.

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1 Q. Did you look at Mr. Oas work in the course of
2 your work?

3 A. I did.

4 Q. Did you find it credible and reliable?

5 A. I generally find Steve's work to be credible
6 and reliable, yes.

7 Q. In this notebook, let's turn back one page
8 there to Exhibit 337, if you could, please?

9 A. Exhibit 337?

10 Q. Three, three, seven, yes, Exhibit 337, please.

11 Mr. Clark asked you some questions about this
12 document. My question is simply all of these
13 proposals here on Exhibit 337, these proposals that
14 were considered by the Task Force the Basic Education
15 Finance Task Force, all of these proposal reflect
16 significant increases in funding; is that right?

17 A. They reflect increases in the funding and it
18 would, I would leave you to your own definition of
19 what significant means.

20 Q. There is no proposal here reflected on this
21 exhibit that contemplated a cut in the state funding
22 for the education; did it?

23 A. That is correct.

24 Q. Mr. Rarick, as part of your work on the work in
25 support of the Basic Education Task Force, you looked

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1 at a variety of material and looked at some of the
2 potential benefits and cost savings associated with
3 the investments spent on the education; is that right?

4 A. I think that is generically a correct
5 statement. I don't know that I ever really did a cost
6 benefit analysis, or anything like that.

7 But, you know, I was certainly working with the
8 members on ideas and helping them shape their
9 proposals.

10 Q. You look at the studies and the things about
11 the cost benefit analysis. Do you recall talking
12 about that in your deposition?

13 A. I did. You know, we certainly reviewed some
14 literature as part of the process.

15 Q. As part of the reviewing that literature and
16 part of the process, did you get an understanding that
17 investments in the education can result in the greater
18 earnings for students producing more tax revenues and
19 served a general stimulus on the economy?

20 A. Did you use the word can or will?

21 Q. Well, I can and/or will, but let's take it
22 first, did you have an understanding that it could?

23 A. I agree with the statement that the literature
24 would reflect that it can.

25 I wouldn't necessarily agree with the statement

1 that the literature says that it absolutely will.

2 Q. Based on what the literature says?

3 A. Right.

4 Q. On the same vein, crime reduction was another
5 one. Based upon your review of the literature, did
6 you have an understanding in the investment in the
7 Education can result in the reductions in the level of
8 crime?

9 A. Can, yes.

10 Q. What about health care costs, based upon your
11 review of the literature, did you develop an
12 understanding that investments and the education can
13 result in the reduced health care costs?

14 A. Can, yes.

15 Q. Same for reductions of the public assistance,
16 did you develop an understanding that investments in
17 the education can result in a reduced draws, or drains
18 on the public assistance programs?

19 A. Yes.

20 In each of those instances you used the word
21 can. I can agree with each of those statements.

22 Q. In your deposition, when that topic was
23 discussed, you said that the studies that you looked
24 on for these materials seemed credible; is that
25 correct?

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1 A. Yes, they were credible.

2 Q. Mr. Rarick, did you review engrossed substitute
3 House Bill 2261 as part of your work?

4 A. I did.

5 Q. Would you agree that it is essentially
6 impossible to cost out 2261 on its face, because the
7 bill does not include the necessary specifics in order
8 to do a costing analysis?

9 A. I would.

10 Q. Would you also agree, sir, in order to do any
11 costing analysis of 2261, one would have to make
12 assumptions about what those specifics would be to
13 include?

14 A. I do agree with that.

15 Q. Based upon your understanding of 2261, in light
16 of those lack of specifics, 2261 defers to working
17 groups, the job of making -- strike that -- let me
18 start over.

19 In light of the lack of the specifics in 2261,
20 would you agree that 2261 refers to the working groups
21 the jobs of the making recommendations to future
22 legislatures about those specifics?

23 A. Well, I wouldn't go quite that far. There is
24 quite a bit, quite a few specifics in 2261.

25 It certainly proposes a new funding

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1 architecture. I think what you are referring to is
2 the actual funding amounts and the specifics on those.

3 It is true that the bill does not include
4 specifics on what those amounts will be. It is also
5 true that the law sets up a process, involving working
6 groups, the most prominent of which being the Quality
7 Education Council, to make recommendations in that
8 regard.

9 Q. Do you think that the Quality Education Council
10 is limited just to making the recommendations about
11 the funding amounts, or are they also make
12 recommendations about substance?

13 A. I think that there is relatively few
14 limitations on what the Quality Education Council can
15 make recommendations on.

16 Save for the fact that it is related to K-12
17 education. I think that, if memory serves, the
18 statutory language is fairly broad in terms of their
19 role.

20 Q. Once those recommendations are made, the future
21 legislatures, then, in turn, would have to take action
22 and actually make an enactment and pass a bill on
23 those recommendations; right?

24 A. They would.

25 Q. Mr. Eric, would you agree that existing

1 legislatures can't bind future legislatures based upon
2 your work in the legislature?

3 A. I would agree that that is the case, yes.

4 Q. With respect to 2261, future legislators could
5 amend 2261. They could change it. They can repeal
6 it. They could reject recommendations. They can
7 extend timelines. They can do something completely
8 different; right?

9 A. That is correct.

10 Q. Assuming that House Bill 2261 is not changed or
11 amended in any way by the future legislature, is there
12 any substantive educational enactment that 2261
13 requires to be done right now, other than setting up
14 working groups and having those groups make
15 recommendations to the future legislators?

16 A. I am going to need you to ask that question
17 again, please.

18 Q. Other than making the recommendations -- I will
19 tell you what. I will give you the whole question all
20 over again.

21 Assuming that House Bill 2261 is not changed, or
22 amended in any way by the future legislature, is there
23 any substantive educational enactment that 2261
24 requires to be done right now, other than setting up
25 working groups and having those groups make

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1 recommendations to the future legislatures?

2 A. That is an interesting question. You may get
3 different answers to that question.

4 I think that there is a specific reference to
5 the inclusion of full-day kindergarten in House
6 Bill -- in the engrossed House Bill 2261, as its
7 relates to the incorporation of the Basic Education.

8 So that is when you are talking about lack of
9 specifics, or the lack of funding metrics, that is one
10 specific call-out in the law about a concrete change
11 to the Basic Education.

12 Now, to your point about whether that can
13 subsequently be amended, the answer is yes. Any
14 legislation can be subsequently amended.

15 Q. As you sit here today, do you know whether 2261
16 absolutely requires a full-day kindergarten for more
17 instructional hours or Core-24, or pupil
18 transportation?

19 Do you know that it actually requires that on
20 its face?

21 A. Actually requires it?

22 It sets up a process for the implementation of a
23 funding formula that would support those things. It
24 says that the support of those things is subject to
25 the adoption of technical details by the legislature.

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1 So I think what you are driving at here is that
2 there could be subsequent events that make it such
3 that these things are not implemented. That is always
4 true.

5 You know, the law is a living, breathing entity.

6 It is created by one legislature and it is
7 amended by another legislature. Indeed, that is what
8 happened in 2261.

9 There was a guaranteed provided by a subsequent
10 legislature that this new legislature is changing and
11 modifying.

12 So, I feel like I might be answering the same
13 question eight different ways. But there is no
14 guarantee that any future legislature will do
15 anything.

16 Q. Right now, with respect to 2261 is enacted, is
17 there any specific funding, any specific dollars
18 identified in 2261 that you can recall?

19 A. I don't remember any --

20 First of all, it is very atypical for a bill to
21 call out specific dollar amounts.

22 It might call out specific resource levels, or,
23 you know, like class sizes or some such. So it would
24 be very unusual for it to call out a dollar amount.

25 It certainly doesn't do that to the best of my

1 recollection.

2 Q. In the Early Learning portion of 2261 was
3 vetoed; is that right?

4 A. Yes. I can't remember if it was all of it or
5 part of it, but certainly there was a veto as it
6 relates to that.

7 Q. Earlier Mr. Clark asked you about House Bill
8 1410. I think that there was a parallel Senate Bill
9 54454.

10 Does that sound familiar?

11 A. Yes. There is a sense of amnesia that I have
12 to overcome, but those are the numbers.

13 Q. Those two bills were intended to implement the
14 Task Force's recommendations coming out of the work;
15 is that right?

16 A. I don't -- I am pretty careful about stating
17 what I think that the intent of something is or isn't.

18 So the sponsors of that had something in mind as
19 it related to those bills.

20 Maybe it was to implement the recommendations of
21 the Task Force.

22 Maybe it was just to modify the K-12 system.

23 But you know, I have to be pretty careful about
24 throwing around the word intent.

25 Q. Fair enough. Let me ask you, did those bills

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1 have more specifics in them with respect to the
2 Education than 2261?

3 A. You mean the 54 -- 5410?

4 Q. 1410 and 5444?

5 A. Yes.

6 Q. Did those two bills have more specifics than
7 2261?

8 A. As I recall, again, going to the definition of
9 specifics -- I think -- are you driving at financial
10 specifics?

11 Q. Substantive specifics, financial specifics,
12 just your general recollection.

13 A. Yes.

14 I don't know that I can say for certain that
15 they -- one bill is more or less specific than
16 another.

17 But if you are talking specifically about the
18 financial metrics, which I think is kind of what you
19 are driving at, I do think that it is probably fair to
20 say that House Bill 2261 assumed a less specific
21 approach, as it related to those metrics.

22 Q. The legislature rejected House Bill 1410 and
23 5444; is that right?

24 A. Neither one of those became law. I guess that
25 is your definition of reject, yes.

1 Q. If you could take a look, please, at -- let's
2 look at the Basic Education Finance Task Force Final
3 Report. I think that it is Trial Exhibit 124, if I am
4 not mistaken.

5 Do you have that there?

6 A. It is helpful if I know what binder is. I have
7 volume XX. This is volume XII.

8 THE COURT: Volume XI is what you need.

9 BY MR. EMCH:

10 Q. So we are looking at Trial Exhibit 124, I will
11 ask you about page 24.

12 A. All right. Page 24.

13 Q. Page 24 of Exhibit 124, yes.

14 A. Let me do some switching here. All right.

15 Q. All right.

16 Mr. Clark, counsel for the State, asked you some
17 questions about the cost estimates on these pages;
18 including the billion dollar figures represented in
19 the last paragraph there.

20 My question is this: All of these cost
21 estimates are significant increases from funding
22 levels right now for education: Is that right?

23 A. Yes.

24 Like I say, they are increases and then, you
25 know, I suppose that the reasonable person would say

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 that they are significant, yes. But I will leave you
2 to your own definition of that.

3 Q. You also testified -- Mr. Clark asked you
4 something about cost modeling. You were explaining
5 how generally you were doing something that worked; do
6 you remember that?

7 A. Yes.

8 Q. You mentioned that you had some district-by-
9 district level analysis as part of your cost models;
10 is that right?

11 A. That is correct.

12 Q. Included -- that would be for all 295 school
13 districts?

14 A. Yes.

15 Q. Is that would include, obviously, then the 13
16 focus districts in this case, like Chimacum, Edmonds
17 and Colville?

18 A. Yes.

19 If they were a school district in 2007-2008, I
20 presumably had some data in there.

21 Q. Do you recall whether you saved those district-
22 by-district estimates, or did you overwrite them, or
23 what happened to them?

24 A. I -- they are part of the model, so they are
25 saved in the respect in the part that they are part of

1 the model.

2 Q. Currently saved right now?

3 A. Yes.

4 Q. You are aware of the obligation to preserve
5 information and evidence relevant to the case?

6 A. Yes.

7 Q. If you would go to Trial Exhibit 1483, please,
8 that is the one that Mr. Clark was asking you about
9 yesterday.

10 A. Exhibit 1483.

11 Q. Yes, actually he was asking you about it today
12 as well. This is the chart.

13 A. Help. Am I in the same binder still?

14 Q. I think that the numbers will be little higher.
15 All right. I have it here.

16 Do you have Exhibit 1483 there, sir?

17 A. I do.

18 Q. Mr. Clark is asking you some questions about
19 this. First of all, I want to clarify, several
20 times -- I will wait for a second.

21 THE COURT: Go ahead, counsel.

22 BY MR. EMCH:

23 Q. Mr. Rarick, you referred to counsel making
24 requests, or counsel asking X, Y or Z about this work
25 product.

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1 A. Yes.

2 Q. In all of those cases when you are referring to
3 counsel, you are referring to the State's counsel
4 Mr. Clark, the Attorney General's office?

5 A. That is correct, and his assistant Aaron, who I
6 guess isn't counsel.

7 Q. Part of the attorney's general's office?

8 A. Right.

9 Q. In no cases were you referring to the
10 petitioners' counsel?

11 A. No, I am sorry, if that was unclear.

12 Q. Just wanted to clarify.

13 With respect to each one of these items listed
14 here in the left-hand column, under the items, each
15 one of these assumption -- each item is really
16 assumption that a future legislature would enact each
17 one of these items; is that right?

18 A. They may.

19 Q. But that is the assumption, the assumption that
20 in order for it to be in effect a future legislature
21 would have to enact those things?

22 A. I guess the best way to say it is if House Bill
23 2261 were implemented in such a way as it incorporated
24 all of the assumptions outlined, this is how much it
25 would cost both in aggregate, and then as individual

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1 items are backed up.

2 Q. As you explained before, you had to make some
3 assumption, and Mr. Clark asked you to make
4 assumptions because the necessary specifics were
5 actually missing from House Bill 2261. You couldn't
6 cost those out, because you didn't know what
7 assumption to make?

8 A. An important distinction you said that
9 Mr. Clark asked me to make assumptions. That is
10 absolutely incorrect.

11 I was not part of making any assumptions in this
12 document. I want, it is important to me, in terms of
13 my role in this process, that it is abundantly clear
14 that I was not the developer of these assumptions,
15 that counsel was, and he made them and passed them
16 onto me.

17 Q. That is fine. I am not trying to cast any
18 dispersions then. Each one of these line items were
19 something that counsel asked you to cost out; is that
20 correct?

21 A. Correct.

22 Q. Each progressive line item backed out the line
23 item from the top number, in other words, the top
24 number is what the estimate would be if all of these
25 assumption -- each one of these line items that

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1 counsel asked you to include -- were actually adopted
2 or enacted by the future legislature.

3 Assuming that it was adopted or enacted by the
4 future legislature that would be the cost on your
5 analysis?

6 A. That would be the rough estimate of those
7 estimates, yes.

8 Q. Were these costs listed on these pages were
9 they estimates of biennium or per year?

10 A. Per year.

11 Q. Then as you progressively go through each one
12 of these items on this Exhibit 1483, so essentially,
13 you are backing out each one of these items that a
14 future legislature would have to take action on.

15 In other words, you backing out the learning
16 improvement days on the first slide and backing out
17 NERCs on the second line, and backing out all of these
18 subsequently on the list; is that right?

19 A. That is correct, in concept, yes.

20 Q. So again, just for each one of those activities
21 that you put in place in the State of Washington, a
22 future working group would have to make a
23 recommendation.

24 A future legislator would have to adopt a bill
25 adopting that recommendation.

1 Then the future legislature would have to enact
2 it, for example, like the 10 learning improvement days
3 for this to actually be part of 2261?

4 A. I can almost agree with that.

5 Really, the only thing that has to happen is a
6 future legislature has to adopt it. The working group
7 may or may not make a recommendation. They don't have
8 any real authority over the law.

9 Q. But the law right now 2261 contemplates
10 recommendations being made?

11 A. It contemplates recommendations and does not
12 bind the legislature as to adopting those or not.

13 Q. So when you are looking for these specifics,
14 these assumptions to make, is it true that you also
15 looked at the final report of the Basic Education
16 Finance Task Force for ideas for some of these
17 assumptions, or counsel did?

18 A. No. There you go.

19 Q. Very good.

20 Is it your understanding that counsel looked to
21 the final report of the Basic Education Task Force for
22 ideas of where to make assumptions?

23 A. Yes.

24 Q. So this chart also could have been called --
25 you said that the title was little bit of a misnomer.

1 This title could have been called Basic
2 Education Finance Task Force Final Report and Various
3 Recommendations Under Final Assumptions?

4 A. Is that your rephrasing of the title that I
5 already gave?

6 Q. Would that be a descriptive title for what is
7 actually happening here on this document.

8 A. I prefer to stay with the title that I gave, as
9 opposed to you giving me another one.

10 Q. Looking at all of the line items, Mr. Rarick,
11 in the left-hand column here, all of these
12 assumptions, are there any of them currently existing,
13 or required to be put in place under 2261, as enacted,
14 as far as you know?

15 A. Well, the transportation engrossed House Bill
16 2261 says that the transportation formula will be
17 adopted no later than, I think that it is the -- that
18 I think that we had a presentation that had the date
19 in it.

20 Believe that it is the 13, 14 school year. That
21 a new formula will be.

22 The language of the bill also, to the best of my
23 recollection, says that full-day kindergarten will
24 become part of the new definition of Basic Education.
25 I think that the language is something to the effect

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1 of "once fully implemented" or something to that
2 effect.

3 Q. Do you recall the 2261 refers to you said fully
4 implemented, has a reference to fully implemented by
5 2018?

6 A. That is couple of different timelines here.

7 The bill has an introductory section, if you
8 will, one of the first sections of the bill, that
9 talks about the implementation of the new program and
10 funding for it to be completed by no later than
11 2017-2018 school year.

12 Then there are particular sections in engrossed
13 House Bill 2261 that call out different timelines as
14 the case may be. I have highlighted one,
15 transportation. Transportation, actually has in that
16 section a sooner timeline for adoption.

17 I am sorry, your Honor, I don't have a copy of
18 the bill in front of me, but my recollection is that
19 it is the 13th, 14th school year.

20 Q. All right. Thank you.

21 One last question on this page. After you back
22 out all of the items, the line items, and you get down
23 to the 7.350 number there, I take it is \$7.350
24 billion; is that right?

25 Was this the last item --

1 A. The third, basically, the fourth column
2 estimated aggregate total cost, and then the bottom --

3 Q. Yes -- the first one of any of those line items
4 at the bottom.

5 A. The reason that I hesitated, it that the first
6 column there is the per pupil. It is not \$7.3
7 billion.

8 If you move over to the right a couple, that is
9 the aggregate number.

10 Q. I misspoke.

11 A. It also happens to be 7.3.

12 Q. Looking at that number, though, that that is --
13 there is still that amount in the \$7.350 billion or
14 approximately \$7.3 billion that the State is not
15 funding right now, even after backing out all of those
16 line items is that right?

17 A. That is -- say that one more time.

18 Q. Still an amount, even after you back out all of
19 the line amounts items --

20 A. Yes.

21 Q. -- still \$7 billion in projections or
22 assumptions that are not being put in the educational
23 system right now?

24 Is that right?

25 Let me ask you this, where does the 7.3 number

1 come from?

2 A. It, basically, the difference between A and B.
3 A is the so-called fully loaded number that reflects
4 all of these various assumptions that defendants'
5 counsel, the State, stipulated.

6 Then after the remaining deductions, that is the
7 remaining estimated aggregate total costs, as the
8 column says. It is the remaining estimated aggregate
9 total cost after all of those changes.

10 Q. All right.

11 New could you, please, put -- I am pretty close
12 to being done. If you could quickly take a look at
13 page, I am sorry, Exhibit 330, which is in yours first
14 binder there, please.

15 A. Could you give me the binder number.

16 Q. I don't have the binder number in front of me.
17 That is range on the spine.

18 THE CLERK: Volume XX.

19 THE COURT: It is XX is the volume.

20 BY MR. EMCH:

21 Q. If we could look at Exhibit 330, again, if you
22 could turn to page 13 on that exhibit, please.

23 A. All right. So this is the nuts and the bolts
24 presentation.

25 Q. Correct; the nuts and bolts presentation.

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1 Looking at page 13 "Formula Overview" --

2 A. Yes.

3 Q. There is a line here the second bullet point to
4 the bottom talking about the timber sales you
5 mentioned that with Mr. Clark.

6 Isn't it true that federal timber land is tax
7 exempted?

8 A. You know, I am not terribly familiar about the
9 tax status of the federal timber. I presume that it
10 holds a tax exempt status, like a lot of publicly
11 owned land is, but I am not really an authority on
12 that.

13 Q. Based upon your work or review of that timber
14 sales issue with respect to the education, are you
15 aware that the federal government gives school
16 districts dollars in lieu of poverty taxes for land
17 that they can't otherwise tax because of the timber?

18 A. Yes, that does exist in certain circumstances.

19 Q. Based upon your work, do you have an
20 understanding that the State deducts that money from
21 the State funding for that school district?

22 A. Yes. Is this different than what we review
23 with Mr. Clark?

24 Are you making an extra point?

25 Q. I am asking those questions, just clarifying.

1 A. Yes. Yes, I think what you said is consistent
2 with what the prior statements were made about it.

3 Q. Fair enough.

4 If you could please turn to the same exhibit,
5 page 16. This is the overview of K-12 State funding
6 slide.

7 A. Yes.

8 Q. Do you see that?

9 A. Yes.

10 Q. Over on the right, highlights, there it says
11 about \$15 billion per biennium in K-12 at the
12 maintenance level. All of this information is
13 maintenance level information; is that right?

14 A. That's right.

15 Q. So then looking at the column here. The first
16 column, the first financial information column, for
17 the both the top and the bottom portion, starting with
18 10,048 down to the bottom, that whole column is
19 maintenance level; is that right?

20 A. That's right.

21 Q. If you could take a look at the Trial Exhibit
22 330 one more time, I think that I am just about -- I
23 am sorry.

24 A. Exhibit 330.

25 Q. Looking at Exhibit 617, please. I am sorry.

1 It is one of the last ones that Mr. Clark asked
2 you about, Exhibit 617.

3 THE WITNESS: That is the tab number,
4 counsel? I am getting a little turned around.

5 MR. EMCH: Binder overload.

6 THE COURT: Volume 44. It is a white
7 volume, not a black volume.

8 BY MR. EMCH:

9 Q. Do you have Exhibit 617 in front of you?

10 A. I do.

11 Q. Very similar question, simply want to ask you,
12 looking at the first column there the financial
13 information, and specifically the subtotal in the
14 upper portion, subtotal Basic Education Programs, it
15 has a \$12,218 amount?

16 A. That is dollars in thousands so that is a
17 billion.

18 Q. This is a billion. The 12,000,218,000 number
19 there?

20 A. Right.

21 Q. Is that your understanding that that 12.218
22 billion amount is the maintenance level amount for the
23 2009 through 11 biennium?

24 A. Not exactly. So I will have to tell a little
25 story here to explain just how exactly this works.

1 But you moved from maintenance level is a --
2 kind of a picture in time situation. At any one point
3 in time, you have projections about case loads, about
4 inflation, about costs to the pensions, about the
5 seniority mix of your staff.

6 All of these data that we track are kind of
7 taking it at a particular point in time. That becomes
8 a reflection for the maintenance at that point in
9 time.

10 So what you are -- I wouldn't necessarily say
11 that that number becomes the maintenance level for the
12 next budget, because those -- those drivers that
13 change that will change.

14 That number, when I redo this chart and in a few
15 months that number will change. It may go up or down.
16 It will depend upon those drivers.

17 Q. Based on the snapshot in time at the time that
18 you created the chart, that was the maintenance level?

19 A. That was the estimate of the maintenance level,
20 yes.

21 Q. In other words that 12.218 billion equals to
22 the maintenance level at the time of the budget; is
23 that right?

24 A. I can't be certain that it was at the time of
25 the budget. There is a couple of times, when

1 maintenance level gets recalibrated through the budget
2 raising process, because we get new information.

3 I am looking at the date of this. It doesn't
4 have a date. So I guess that I am not going to be
5 able to be as nearly precise for you about the date as
6 I think that you want me to be.

7 But I guess that the general point is whatever
8 specific date that this was done, it reflected a
9 snapshot of all of those drivers that we talked about,
10 and rendered an estimate of the Basic Education
11 maintenance level for that point in time.

12 Then that that subsequently changes every time
13 that those drivers change.

14 MR. EMCH: All right. Thank you very much,
15 I appreciate it.

16 THE COURT: Does that conclude your cross
17 examination?

18 MR. EMCH: Yes, sir.

19 THE COURT: Thank you.

20 Mr. Clark, redirect examination?

21 MR. CLARK: No redirect, your Honor.

22 THE COURT: All right.

23 I have some questions, we might go slightly
24 into the noon hour. Let me check with the lower
25 bench. How about 12:10, if necessary; all right.

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1 Mr. Rarick, I am going to have you look at
2 some exhibits again. This is black volume XV. It is
3 Exhibit 1483.

4 THE WITNESS: 1483?

5 THE COURT: Correct. So my questions are
6 to sort of follow-up, or to get myself some
7 clarification on your testimony.

8 I believe on cross examination you were
9 asked if you looked at House Bill 2261. And you
10 indicated that you couldn't cost it out, because there
11 is so many assumptions and it requires recommendations
12 to the working groups.

13 Is that correct?

14 THE WITNESS: Yes, sir.

15 I think that the best way to summarize that
16 would be House Bill 2261 says "here will be the new
17 way that funding is delivered to the school
18 districts."

19 It doesn't say, "here is how much funding
20 will be delivered to the school districts."

21 THE COURT: I am trying to reconcile your
22 testimony with what is Exhibit 1483.

23 THE WITNESS: All right.

24 THE COURT: Exactly what you have based
25 these cost estimates on.

1 THE WITNESS: All right.

2 The process was State's counsel saying, "I
3 would like you to take the -- kind of the structure of
4 2261 and turn -- in terms of the funding by school the
5 prototypes, and all of the various kinds of
6 methodological changes that are reflected in the law.
7 Here are the various assumption that I want you to
8 make about the resource levels for that."

9 Then, most of the assumptions came from the
10 Basic Education Task Force. A majority of them came
11 from the Basic Education Task Force Report. The Task
12 Force recommended that the class size ought to be,
13 let's say 25 in high school, then that that was the
14 assumption that State's counsel used as the starting
15 point.

16 That is a very -- that little example is
17 kind of indicative of all the way down the road.

18 There were a few examples where the Basic
19 Education Task Force Report didn't really make a
20 recommendation, or the recommendation wasn't totally
21 clear, as to how it would be applicable or whatever.

22 Then so that the State's counsel, you know,
23 would talk it through and tell me what they wanted to
24 do.

25 THE COURT: All right.

1 So that the assumptions that are in the
2 first line, that says: "House Bill 2261 under various
3 assumptions" --

4 THE WITNESS: Yes, sir.

5 THE COURT: -- those assumptions were based
6 on the recommendations of the Basic Education
7 financing Task Force with respect to the issues, such
8 as funding of NERC at, I assume, 100 percent?

9 THE WITNESS: 100 percent of what?

10 THE COURT: Well, this says "remaining NERC
11 71 percent."

12 THE WITNESS: Right.

13 So that that reflects 71 percent of the
14 Task Force's recommendations on the NERC.

15 THE COURT: Right, I see.

16 THE WITNESS: When you said "at 100
17 percent." 100 percent of what? The Task Force Report
18 is kind of the baseline and 71 percent of the Task
19 Force Report.

20 THE COURT: This reduces the Task Force
21 recommendation from its recommendation to 71 percent
22 of the recommendation?

23 THE WITNESS: Correct.

24 THE COURT: Eliminate class size poverty
25 subsidiary in grades 9 through 12, where would we find

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1 the cost of the size poverty subsidy?

2 THE WITNESS: How far down is that?

3 THE COURT: I am on item 4 under the top
4 one, in item number 4.

5 THE WITNESS: All right.

6 In the Task Force Report, the Task Force
7 made essentially two recommendations on the class
8 size.

9 They kind of, if you can think of it this
10 way divided the State up into two different groups of
11 schools, schools that are considered high poverty
12 schools and schools not considered high poverty
13 schools. They made different recommendations for each
14 group.

15 My recommendation was that the non-high
16 poverty schools, or your standard schools, I suppose,
17 was 25, and then it was something less for the poverty
18 schools.

19 So that the incremental change that you say
20 see there is the aggregate impact of just bringing
21 the, this universe of schools to the same class size
22 as the so-called non-poverty schools.

23 THE COURT: Top of the chart it says
24 "dollars in thousands." Is that correct?

25 THE WITNESS: No.

1 I apologize for the header of this
2 document. We talked about the fact that it was kind
3 of erroneously included.

4 THE COURT: These are an actual dollars,
5 not dollars in thousands.

6 THE WITNESS: That's correct.

7 The per pupil costs, those are thousands.
8 The aggregate cost are billions, over there in the 3
9 and 4 column.

10 THE COURT: To what extent, if any, does
11 this model consider the implementation schedule of
12 either the Task Force or 2261?

13 THE WITNESS: Can we -- let's break that
14 down.

15 THE COURT: I am specifically referring to,
16 for example, reducing to the present day dollars or
17 any of those considerations.

18 THE WITNESS: For all of these costing
19 exercises -- both this one, the work that I did for
20 the Task Force -- we chose the 2007-2008 school year
21 as the basis for costing.

22 The reason for that is because all of the
23 data for that year is final. It is settled. You know
24 that you have a complete set of unchanging data. It
25 eliminates all of the squishiness about subsequently

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1 adjusting and so forth. So it reflects the costs for
2 that year. It also reflects the revenues for that
3 year.

4 When we are talking about the cost in the
5 Task Force Report, you are essentially taking the
6 total costs of the proposal, net of the revenues, that
7 are applied to the system, and then it is that
8 difference there that you see reflected in the that
9 report. Both of those are reflective of 2007-2008.

10 So any subsequent projections about how
11 enrollment may change or what inflation might look
12 like are not incorporated.

13 THE COURT: Is this model, if considered
14 then, if the legislature were to meet in the special
15 session tomorrow, wave the magic wand and say "we are
16 implementing essentially the recommendations of the
17 Task Force" --

18 THE WITNESS: Ah-hum.

19 THE COURT: -- this is what it would cost?

20 THE WITNESS: No.

21 THE COURT: No?

22 THE WITNESS: No.

23 There is a fair number of factors that
24 could adjust that.

25 This is a good estimate of the aggregate

1 costs of these assumptions.

2 Actually, I am not totally sure that I
3 understood your question.

4 Are you saying if it implemented the 2261
5 under all of the assumptions that are enumerated there
6 tomorrow?

7 THE COURT: Correct.

8 THE WITNESS: It would not be an exact
9 estimate, because of the changes in all of the drivers
10 that we discussed before.

11 THE COURT: All right.

12 I am going to ask you to turn to -- let me
13 see if I have anything else on this chart.

14 Exhibit 330, which is volume XX -- I am
15 going to give you a new volume and a new document,
16 which is volume X, Exhibit 74. If I could get counsel
17 to give that to the witness, please.

18 THE WITNESS: In volume XX what am I
19 looking at?

20 THE COURT: I will ask you to look at
21 Exhibit 330.

22 MR. EMCH: Exhibit 74, your Honor.

23 THE COURT: Exhibit 74, yes.

24 Now on Exhibit 330, I would like you to
25 look at pages 19 and 20.

1 THE WITNESS: All right.

2 THE COURT: 19, is, I believe. All funding
3 from any source; is that correct?

4 THE WITNESS: That is correct.

5 THE COURT: 20 is any funding from any
6 State source?

7 THE WITNESS: Not quite that broad, but
8 near general fund.

9 The way to think about that is the vast
10 majority of the money that goes to the K-12 public
11 schools is general fund and a couple of other flexible
12 accounts, like the student achievement fund.

13 So it includes the term "near general fund"
14 was invented to incorporate those as being, they are
15 not strictly general fund, but they act in many ways
16 for generalized support.

17 THE COURT: Does 20 include student
18 achievement fund?

19 THE WITNESS: Yes, it does.

20 THE COURT: Now keep that out, if you
21 would, and turn to page 24 of Exhibit 74. You are
22 looking for the page that is actually at the top.

23 THE WITNESS: Page 24. The page that is in
24 the little red --

25 THE COURT: Correct.

1 THE WITNESS: 24, you said?

2 THE COURT: Correct, please.

3 THE WITNESS: I am there.

4 THE COURT: All right.

5 Now, this chart has slightly different
6 figures, not grammatically, but slightly different
7 figures from State funding for the same time period of
8 \$4,083 upwards to \$6,311, not adjusted for inflation.

9 THE WITNESS: Ah,hmm.

10 THE COURT: Then they use CPI. They don't
11 state if it is Seattle CPI or not.

12 THE WITNESS: Ah-hum.

13 THE COURT: But it is some CPI, which
14 basically shows a flat line from 94 -- 1994 to 2008.

15 THE WITNESS: Ah-hum.

16 THE COURT: I will tell you my reading of
17 this, and you can correct me, if I am wrong.

18 THE WITNESS: Sure.

19 THE COURT: The difference between these
20 charts is that the Exhibit 74 excludes State pension
21 contributions.

22 THE WITNESS: Ah-hum.

23 THE COURT: Exhibit 330 includes State
24 pension contributions.

25 THE WITNESS: Ah-hum.

1 I think that that is a key difference. I
2 note that this chart is spending. This chart doesn't
3 say funding, but, well it does say State funding.

4 There is a sometimes an appreciable
5 difference between revenues and expenditures, when you
6 cast them on a per pupil basis.

7 This says all State K-12 dollars, which
8 conveys to me that it might also include capital. I
9 don't know if it does or not, but it may very well.

10 Then the State pension amounts, that is
11 whether or not to include pension amounts is an issue
12 of some discussion.

13 The arguments generally for excluding it
14 are that it tends to be relatively volatile. It also
15 doesn't reflect an actual, generally speaking, doesn't
16 reflect a change in the program level.

17 It is just reflecting a change in the
18 amortized scheduled payments of that program level.
19 Kind of refinancing a mortgage, if you will.

20 So some people think that you ought to
21 exclude that.

22 On the converse of that, it is an important
23 benefit that is part of attracting and retaining.

24 It is true that payments are different by
25 year. But that becomes a slippery slope in terms of

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1 how you draw that line with other components within
2 the K-12 system.

3 I have tended to include it, because I
4 think that it starts to get a little hyper technical
5 in terms of what then do you exclude, when you try to
6 draw the bright lines.

7 THE COURT: We are going to look at Exhibit
8 337, I guess, we are going back to 1483, which is
9 black volume XV. I think that I just had you put that
10 aside.

11 THE WITNESS: Exhibit 337 within volume --

12 THE COURT: Exhibit 337 is within volume
13 XX.

14 THE WITNESS: Volume XX.

15 THE COURT: Correct.

16 Then also 1483, which is volume XV. Are
17 any of your projections in 337 aligned with your
18 projections under or estimates under 1483?

19 THE WITNESS: Not particularly, for a
20 couple of reasons.

21 The estimates reflected in Exhibit 543 --
22 which I guess is tab 337 -- reflected the proposals at
23 that particular moment in time, which is actually
24 still in the task for the process. They were still
25 deliberating.

1 There were subsequent changes to a lot of
2 these proposals. So some of these things remained
3 consistent; some of them didn't. They tended to add
4 more than they detracted, the proposal, as you see,
5 got more not less expensive.

6 So that is why that is the difference.

7 THE COURT: All right. The current funding
8 that the legislative proposal, the Bergeson proposal,
9 and the Grimm proposal all are based on current State
10 funding; is that correct?

11 And additional costs or costs in addition
12 to the current State funding?

13 THE WITNESS: That is correct.

14 I just want to clarify one thing. Remember
15 we have got those two percentages down there. One of
16 them, you see in the bottom row.

17 THE COURT: Right.

18 THE WITNESS: Where it shows aggregate cost
19 and then it will show for most of the proposals a
20 percentage rate.

21 THE COURT: One was general funded and one
22 was none, near general fund.

23 THE WITNESS: Near general, when answer
24 your question I want to make sure that you understood
25 how those costs were reflected.

1 THE COURT: In full funding is based upon
2 all resources?

3 THE WITNESS: Yes.

4 THE COURT: In their proposal.

5 THE WITNESS: To the best of my
6 understanding of that, yes.

7 THE COURT: All right.

8 The line there says "compensation for
9 certificated instructional staff, SCIS," shows current
10 funding level estimate at \$2.8 billion and then under
11 the subsequent proposals \$4.2, \$4.9, \$3.8, \$3.7.

12 Is it my understanding that increase is for
13 the additional lid days only?

14 THE WITNESS: No.

15 THE COURT: All right.

16 THE WITNESS: That is comprised of a couple
17 of different things.

18 One is that there is an increase in the
19 number of certificated instructional staff in these
20 proposals by a large order of magnitude.

21 So even if you hold the salary constant,
22 just merely paying compensation level for that many
23 more staff units, is going to drive that cost
24 significantly.

25 THE COURT: All right.

1 THE WITNESS: It also expands the number of
2 certificated instructional staff that are the actual
3 categories of them.

4 THE COURT: I misunderstood. So this does
5 include additional staff units?

6 THE WITNESS: Absolutely.

7 THE COURT: All right.

8 Then I think that lastly on this list, on
9 Exhibit 337, is extended opportunities for highly
10 capable, the only item on here that is not considered
11 to be part of the Basic Education?

12 THE WITNESS: That's actually almost
13 totally true.

14 The other thing would be levy equalization.
15 The reason that those things are included is because
16 during these deliberations they were wrestling with
17 whether or not these things should or shouldn't be
18 part of the Basic Education.

19 So in answering your question, I am telling
20 you that they are not part of the Basic Education now.
21 But they were clearly at the center of the debate
22 about that.

23 THE COURT: Mr. Rarick, those are the
24 questions. I think that counsel may have follow-up
25 Mr. Clark.

1 MR. CLARK: None.

2 THE COURT: Mr. Emch.

3 MR. EMCH: No questions, your Honor.

4 THE COURT: Mr. Clark, are you asking that
5 this witness would be excused?

6 MR. CLARK: I am, your Honor.

7 THE COURT: Any objection?

8 MR. EMCH: No objection, your Honor.

9 THE COURT: Mr. Rarick, thank you very much
10 for showing up for the last couple of days and for
11 your patience with the Court.

12 I hope that you have the good rest of the
13 day. You may step down. You are excused.

14 The remainder of us will go to the lunch
15 recess. I want to thank lower bench for the
16 willingness to stay to excuse the witness and get him
17 back to work.

18 Why don't we resume at 1:30 at this
19 afternoon. The Court will be in recess.

20 THE BAILIFF: All rise. Court is in
21 recess.

22

23 (Court was recessed.)

24

25

1 I N D E X

2 W I T N E S S E S

3

4 BENJAMIN RARICK

5

6 DIRECT EXAMINATION BY MR. CLARK 3919

7

8 CROSS EXAMINATION BY MR. EMCH 3994

9

10 E X H I B I T S

11

12

13 Exhibit No. 337 received in evidence 3938

14 Exhibit No. 371 received in evidence 3959

15 Exhibit No. 1483 received in evidence 3965

16 Exhibit No. 330 received in evidence 3972

17 Exhibit No. 334 received in evidence 3990

18 Exhibit No. 335 received in evidence 3991

19 Exhibit No. 333 received in evidence 3997

20 Exhibit No. 338 received in evidence 4004

21

22

23

24

25

1 C E R T I F I C A T E

2 REPORTER'S CERTIFICATE

3 STATE OF WASHINGTON)

4 SS:

5 COUNTY OF KING)

6

7 I, DOLORES A. RAWLINS, an official reporter of
8 the State of Washington, was appointed an official
9 court reporter in the Superior Court of the State of
10 Washington, County of King, on January 15, 1987, do
11 hereby certify that the foregoing proceedings were
12 reported by me in stenotype at the time and place
13 herein set forth and were thereafter transcribed by
14 computer-aided transcription under my supervision and
15 that the same is a true and correct transcription of
16 my stenotype notes so taken.

17 I further certify that I am not employed by,
18 related to, nor of counsel for any of the parties
19 named herein, nor otherwise interested in the outcome
20 of this action.

21 Dated: October 1, 2009

22

23

24

DOLORES A. RAWLINS, RPR, CRR, CCR

25

King County Superior Court, Seattle, WA

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,